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New York

Home rule for
New York City

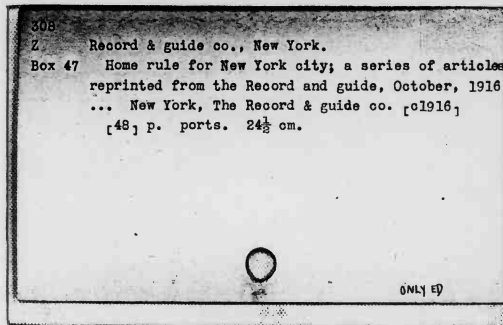
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Home Rule
for
New York City

A series of articles
reprinted from the
Record and Guide

October, 1916

The Record & Guide Co.
119 West 40th Street, New York

The Real Estate Board of New York.
115 Broadway, New York

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119 West 40th St., N. Y.

JUNE 6, 1917 ACT

Introduction

THE articles in this pamphlet represent the views of State and City officials and other persons well informed on the subject of Home Rule for New York City. They are reprinted from the Record & Guide, in an effort to co-operate with the Real Estate Board of New York in presenting facts having an important bearing on municipal expenditures. The subject of Home Rule is of vital interest to every taxpayer of the City of New York. No less should it interest every City official, upon whom rests the responsibility of determining, to a greater or less extent, what the City shall spend annually for reasonable governmental functions.

Its interest to members of the State Legislature is quite obvious. Senators and Assemblymen will, in the next few weeks, be called upon to decide what measure of Home Rule the Empire City should be allowed.

Should New York City be given a greater measure of Home Rule than it now has?

If so, how far should the Legislature go in this matter?

Along what lines should greater latitude be allowed?

Opinion is not unanimous on this question. Most people will agree that the City should have more to say than it now has about the expenditure of its funds—that expenses resulting from mandatory legislation should be kept within the smallest possible limit. But the details of working out a satisfactory scheme present grave difficulties.

The views herein expressed and the information presented by those qualified to speak on this matter, should be of immense value in enabling legislators to determine the measure of their own responsibility to the taxpayers in this particular and to pass intelligent judgment on such plans as may be presented to the next Legislature.

THE RECORD AND GUIDE COMPANY.

THE REAL ESTATE BOARD OF NEW YORK.

New York City,
October 14, 1916.

HOME RULE FOR CITY IMPERATIVE

New York City Should Have Control Over Local Expenditures—Efficient Government and Savings the Result

By JOHN PURROY MITCHEL, Mayor, City of New York

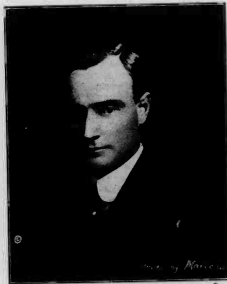
IT is impossible for one to occupy a responsible position in the government of the City of New York without being compelled daily to consider some aspect of the very difficult problem of the relations between this city and the State of which it is an integral part. Even a casual observer of our political and civic life must realize that there are objectionable elements in this

city of New York is operating under a charter and group of laws that are exceedingly complicated and detailed in character. In this charter and these laws there are many provisions which have no place whatever in the fundamental law of a city—provisions concerning matters of detail which should logically be left to the discretion of the officers who are actively engaged in the conduct of the city's business. The net result of all this is that whenever the city, acting through its own officers, desires to put into effect any piece of constructive reform, application must almost invariably be made to Albany for a change in the charter or laws applicable to the city. The proposed change may relate to a matter of most intimate, and if I may so put it, personal concern to the city as such.

We are, nevertheless, compelled to plead our cause before members of the Legislature from all parts of the State—members who for the most part have little interest in or knowledge of the conditions and requirements of this city and its government. To my mind it is little short of ridiculous that these members should have any part whatever in determining whether New York City shall purchase its supplies through the medium of a central agency, or whether we shall have a centralized department of markets, or whether we shall enter into a contract for the disposal of our garbage, or whether we shall have one Commissioner of Accounts instead of two, or whether the office of City Chamberlain shall be reconstructed so as to make it a more effective agency in our government.

This city contains approximately half of the population of the State of New York. More than seventy per cent. of the people of the State reside in incorporated cities. If the people of the State are capable of self-government, it is obviously absurd to say that the people of the cities are not capable of self-government. It is simply a fact that the people of the State are in major part the people of the cities of the State.

I am ready to concede that the State government is sometimes of higher grade and tone than the government of this or that city, but this is subject to change as the wheel of politics revolves. It is often true that the government of a particular city is superior to the government of the State in point of character, ability and devotedness to the public weal. It seems to me that against the proposal to grant home rule to the cities of New York State no argument worthy of consideration can be drawn from the notion that the people of our cities, and especially the people of New York City, need to be protected against themselves by the representatives of



HON. JOHN PURROY MITCHEL

relationship as it now exists. Personally, I have given a great deal of time and attention to this problem. I feel very deeply that the city cannot work out its own salvation in the matter of effective and economical government until its relation with the State Legislature has been established upon some more satisfactory basis than now prevails.

Nobody appreciates more fully than I the value of the protection which the city enjoys by reason of the power vested in the Mayor to exercise a suspensive veto on special legislation affecting the city. In spite of this, however, it is well known that we are compelled to maintain a vigilant lobby at Albany in order that we may be kept in touch with proposals for city legislation that are introduced, in order that we may oppose in their inception such proposals as are deemed to be deleterious to the best interests of the city, and in order that we may promote those proposals which are regarded as necessary or advisable.

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the State. If instances of the well-working of such protection may be cited, so also have there been numerous instances of its ill-working. I make bold to declare that the people of the City of New York are capable of producing and maintaining, without assistance from Albany, a government appropriate to their own needs.

I am under no delusions about the difficulties that inhere in the proposal to grant to the City of New York the power to regulate those affairs which are primarily, if not wholly, of local interest and concern. It would be well, indeed, if the people of the city should clearly understand the particular elements of difficulty that are found in this problem. I think I can set these forth with clearness even in an article as brief as this must of necessity be.

In the first place we can rely upon a constitutional amendment to afford us the complete relief that we seek. There is a fundamental doctrine of our law that the Legislature may not delegate Legislative powers. Generally speaking, it may doubtless be said that while the Legislature can delegate to a city the power to enact local ordinances, which power is unquestionably Legislative in character, the Legislature may not delegate to the city the power to make a charter. We cannot, therefore, appeal to the Legislature for a thorough-going grant of the right to make our own local charter. Just how far, however, the Legislature may go in the direction of conferring upon the city broader power over certain matters that are dealt with in the charter is a matter which is as yet not clearly and definitely settled in our law. Personally, I am of the opinion that the Legislature may by simple statutory enactment greatly broaden the powers which the city now has with respect to the organization and operation of its own government. At least, I am convinced that the time has come when this whole question should be thoroughly threshed out before the courts.

The simple and obvious fact is that the Legislature may grant to a city a charter which establishes merely the skeleton of its government and at the same time confer upon the corporate authorities of such city the power to transform this skeleton into a complete organism. On the other hand, the Legislature may decide not only to provide the skeleton of the city's government, but may also deal with every minute detail relating to the organization and operation of that government. This latter is what the Legislature has done with the City of New York. The result is that the corporate authorities of the city are placed under a tremendous handicap. I am inclined to believe that in spite of the elaborations of the city's charter the Legislature could extend to us the power to remould and reshape certain aspects of the city government and this could be done through the medium of one or more brief amendments to the charter. I believe that we should ask the Legislature to extend to us every power. But this is not all. The Legislature of local

self-government that is within its power can go only a little way. The constitution must be changed to meet our further needs.

In the second place, assuming that a constitutional amendment for this purpose is to be drafted, we are face to face with the problem of the scope of powers that we want granted to us. I am not one of those who believe that this question of the scope of the city's power can be determined by the use of any general phrases giving the city control over "matters of local concern" and reserving to the State Legislature the right to enact laws in "matters of State concern." Such phrases are entirely too general and vague to accomplish an adequate separation of powers between the city on the one hand and the State on the other.

Take any group of thoughtful persons and they will differ as to whether matters relating to the police, health, education, control of public utilities, municipal ownership of utilities, municipal elections, civil service, taxation, etc., are matters of State or of local concern. Whether the city should be given complete control or partial control over such matters as these (and I have by no means exhausted the list) involves large and difficult questions of policy. We should not put these questions up to our courts for settlement. The slightest knowledge of the difficulties that have arisen in the twelve states which have already granted charter-making powers to some or all of their cities is sufficient to show that the use of general phrases in any constitutional grant of home rule powers only serves to throw the whole development of the scope of the home rule powers into the hands of the courts. The courts do not desire to have this tremendous burden laid upon their shoulders, and those who are responsible for the drafting of a home rule provision should certainly settle definitely these questions of policy to the extent that they can be foreseen.

For my own part I am convinced that the City of New York should be granted comprehensive powers in respect to most, if not all, of those matters which the city undertakes as a so-called agent of the State government. I think that we should throw over this whole vague distinction between the city as an agent of the State and the city in its private or local capacity. We should take up each of these matters and consider merely the question of policy that is involved. But we cannot approach this consideration with fairness and helpfulness unless we throw off the spirit of partisan politics and abandon the notion that the capacity of the city for self-government is under suspicion. The question and the whole question is whether the city should not be endowed with power over such matters as are obviously of chief concern to its people. The corporate authorities of the city and the people of the city cannot be held to the proper share of responsibility for the conduct of the city's affairs unless they possess the powers that are reciprocal of such responsibility. I firmly believe that if this

city be thrown upon its own resources it can and will develop a government that is in many respects better suited to its needs than that under which we are now operating.

I am not of the opinion that very long changes in the fundamental features of the government of New York City are to be desired—certainly not for the immediate present. It is with reference to matters that are individually of comparative minor significance but are collectively of large bulk that the city demands liberation from the restrictive requirements of the existing charter and laws. In the third place, it is no easy matter to devise a satisfactory machinery for the exercise of home rule powers. An ideal plan would be to substitute for our present charter an instrument of much briefer character—a genuine fundamental law for the city. This charter should go into effect upon the referendum to the people and should thereafter be amended only by such referendum. Under such a plan many of the provisions of our existing charter, which are in fact not fundamental at all, would be subject to change by the corporate authorities of the city while those features of our government which are of prime importance would, like the constitution of the State, be subject to change only by a vote of the electorate. Whether this ideal arrangement can be reached at once I am not prepared to say.

The City of Portland, Oregon, recently simplified its charter by transforming, upon a vote of the people, large sections of the existing charter into ordinances. Perhaps there may be a lesson of importance for New York in this act of a well-governing city in the far west. This question of machinery certainly involves difficulties; but they are by no means insuperable. We are prepared to grapple earnestly with them and to solve them in a satisfactory way.

Finally I realize that it is no easy matter to set the metes and bounds of the power of the Legislature with respect to the city. There are certain fields of government control which need not be considered when we are attempting to extend the powers of local self-government to the city. There is not the slightest probability that the city would ever attempt to exercise control over nearly all the various branches of the private law that are subject now to statutory regulation. The city would never seek to draw into itself the entire powers of the State to deal with such matters as wills and administration or contracts generally, or insurance, or banking, or corporations or domestic relations. The subjects included within a municipal charter are fairly well known.

It is in respect to these only that the authority of the Legislature would have to be clearly delimited. In point of fact the Legislature has been exceedingly generous in the construction which it has placed upon the "special city laws" which the constitution requires should be submitted to the veto of the Mayor. If it is decided that some power must be retained in the hands of the Legis-

lature with respect to such matters as the regulation of public utilities or education or the organization of magistrate's courts, and other matters, we should by no means be willing to part with the salutary protection in such matters which we now have in the form of the mayor's veto. If a sphere of autonomous government be set aside for the city, and if that sphere be not as large as we should like to have it, it would obviously be necessary to retain the local veto power on those special laws which are beyond that sphere, but which are nevertheless of vital interest to the city.

In all of what I have said I have been viewing the subject of home rule as if it were identical with power to frame a charter. Personally I believe that a substantial grant of home rule power cannot be made without conferring the power to make and adopt a local charter. The charter is the fundamental law of the city in precisely the same way that the constitution is the fundamental law of the State. We could not conceive of the State's exercising self-governing powers without having the authority to adopt a constitution; for this constitution fixes the full power of the governmental authorities which it sets up. So also with the city charter.

But the charter of this city is far more restrictive in character than the constitution of the State. While we do not hesitate to frame and adopt a fairly simple document to furnish the fundamental law of the entire state, we state, we nevertheless proceed to the utmost extremes in the matter of detail when it comes to the charter of the city. This is due almost wholly to the fact that the charter is a statute or rather a heterogeneous and somewhat conglomerate group of statutes. All this should be changed. Our city charter should deal only with things of a fundamental character; and quite as much power to deal with the affairs of the city should be conferred upon the corporate authorities of the city, subject to the charter, as is now conferred upon the state legislature to deal with the affairs of the state, subject to the constitution of the state.

Our recent Constitutional Convention dealt with the subject of home rule in the fundamental law. I was by no means satisfied with the proposal which they made. In view, however, of the defeat of this constitution at the polls, I am not prepared to discuss the proposal in detail. The Convention recognized that the time had come when the cities of this State should be given a larger share of power in the shaping of their own destinies. This in itself was an important gain for the cause of home rule. I am convinced, however, that the constitution was defeated in part because the home rule article which it contained was defective, principally in that it failed to grant a sufficiently complete and effective measure of home rule to cities.

I am much immersed in the various important problems that arise in connection with the work of the office which I now fill. I do not forget, however, that the problem of

home rule for this city is not only vitally related to most of these other problems, but is in fact bigger and broader than any of them.

I shall continue to fight with earnestness and with hope for the realization of genuine and comprehensive self-government for this city.

WHAT KIND OF HOME RULE DOES THE CITY OF NEW YORK REQUIRE AND WHY?

By HENRY BRUERE, City Chamberlain

HOME rule has for many years been a political battle in New York. The struggle for home rule began when the State legislature practically took the city government over bodily, even going so far as to make city appropriations from the capitol at Albany. Reformers have demanded home rule, politicians have promised home rule, but after decades of discussion home rule is still an aspiration and not an immediate probability in New York City.

Mayor Mitchell's article last week discussed some of the legal aspects of home rule. These may seem at first glance to be difficult and complicated. Experience has shown that some complexity is necessary in the framing of home rule provisions to avoid judicial overturning of home rule powers. But this is a matter for skilled lawyers to attend to. What laymen need to concern themselves with are the aims and results of home rule and not the legal phraseology necessary to bring it about. These aims and results are easy to comprehend.

What Home Rule Means.

Home rule for New York City is still a remote possibility chiefly because the demand for it among citizens of New York is vague and undefined. Home rule has been most often discussed as a negative proposal. It has expressed largely rhetorical revolt against up-state control of New York City affairs through the legislature. But genuine home rule is rather a positive responsibility than a negative state of freedom from legislative control. Clearly it does not mean merely the absence of legislative interference. It means, rather the assumption by the people of the locality of the difficult task of organizing, commissioning and controlling their local government.

If out of five million people in New York City 5,000 were actively concerned with having a city government do work of the most completely effective character, it would not take New York long to obtain home rule. The chief obstacle to home rule in New York is that the number of persons who are intimately concerned about the welfare and effectiveness of city government is so limited that radical reforms such as the substitution of local for legislative regulation of city affairs are slow in coming. In order to inspire a more insistent and coercive demand for home rule it is necessary, in my judgment, for the people of the city to think in terms of the definite responsibilities of home rule instead of in the vague generalities of the doctrines and theories of home rule.

City a Part of State.

The city is a subdivision of the state. There is no justification for complete municipal self-government by a city unless the city is prepared to discharge its business with greater effectiveness and regard for public welfare under its own complete management than under a form of government and rules of operation prescribed by the

state. This can only happen when public interest in government and public desire for government results are so vigorous and insistent as to exercise the same influence for good in the management of local affairs that is presumed to be exercised by the responsibility and disinterestedness of the legislature.



HON. HENRY BRUERE

I therefore place as a first step in the direction of home rule the development of a genuinely passionate concern for the part of a large number of citizens. This, I think, is coming about, but it is coming slowly in New York, much more slowly than in the cities of the West, where home rule has been achieved.

Home Rule in Ohio.

The cities of Ohio have availed themselves of their power to obtain home rule when they felt a strong desire to direct and control government in the public interest. Home rule is natural in the city of Cleveland, because Cleveland, under Mayor Johnson's brilliant leadership, learned to think of city government as a publicly owned instrument for dealing with questions of the greatest public moment such as street railway transportation. In Dayton, Ohio, home rule followed inevitably upon the recognition by the citizens of Dayton, compelled by the great flood of 1911, that the rehabilitation of the devastated city would only be possible by vigorous and unprejudiced action of city government.

New York, came nearest home rule when it felt the need for working through city government in dealing with its great transportation problem. New York will wish home rule now with greater earnestness as it feels that it can

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WHAT HOME RULE DOES.

It imposes restraint upon the legislature of the State with respect to the passage of measures affecting cities.

It grants by constitutional right as opposed to legislative authority, certain definite powers to municipalities which the legislature may not abrogate.

It authorizes the city to frame its own charter.

achieve a greater economy and straightforwardness of management through the exercise of home rule powers.

I venture to say that even the average intelligent man has not set up in his mind a clear picture of what home rule means. Let us first dispose of some popular bogies.

Some Bogies.

Property owners now look to the State for limitations on the local power to levy taxes. Home rule would not mean release from State taxing limitation. Sometimes local latitude in selecting methods of taxation is considered desirable, but generally it is agreed that the local government should not be given power to increase taxation beyond a definite point fixed by State constitution or State legislature.

Home rule would not mean vesting in elective officials power fundamentally to reconstruct the government or to change the terms or conditions under which public officials were elected. Such powers would be vested only in the electors of the city who through referendum would be obliged to approve a new charter or radical amendments thereto.

Home rule would not vest in local authorities complete control over civil service. It is generally agreed that civil service regulations should be subservient to state control because of the importance of preserving public service from political delinquency.

Home rule would not mean the liberation of the city to do as it chose regarding education. Education is everywhere regarded as a State function to be carried on under State supervision and direction.

Home rule would not mean the freedom of the city to regard or disregard State laws which the local police are called upon to enforce. The city must always continue to serve as an agent of the State in exercising police powers if the State chooses, and home rule would not negative this responsibility.

Could Frame City Charter.

Briefly these added elements of self-government would be granted by the liberation of the city from State control. Home rule would give to the electorate of the city of New York power to frame the city charter and to commit to elective officials certain authority to amend specific provisions of the charter, or to govern the internal organization of city departments.

Home rule would give to the people of the city power on referendum to engage in any great public service activity such as ownership and

operation of a utility—a bus line, lighting plants, subways or ferries. Generally, such power is restricted to specifically named utilities, and in the opinion of those who have studied the question it should always be controlled by the requirement of submission for public approval.

City Free from Some Burdens.

Home rule would clearly impress upon the State the unwisdom of imposing upon the city mandatory charges in respect of local functions. It would automatically release the city from the burdensome and interfering State regulations in regard to local affairs.

Home rule would increase responsibility on the part of the local electorate and officials for the character of government, because it would remove the opportunity for placing blame upon the legislature for unsatisfactory conditions. Home rule would permit the city to develop its organization and method of administration under the pressure of its own experience and intelligent judgment as to requirements, without compelling it to educate and persuade a remote authority as to the wisdom of its conclusions.

Home rule would remove the city from its dubious position of inferiority to the State, and would challenge the assumption of superior wisdom of officials chosen to the legislature by small constituencies over the civic wisdom of men who are elected by the great population of the city of New York.

Home rule would force the consideration of local issues in the light of immediate power to execute conclusions regarding them. It now frequently happens that great questions are discussed in local political campaigns, although there is no power vested in the local authorities to make good either promises or proposals.

I think of home rule not so much as the liberation of the city government from State control as the vitalization of the interest of the people of the city in government matters. There is not the slightest reason in the world why the government of New York City should present any occasion for apology or regret, but no one who has not participated in an effort to improve local administrative conditions can fully realize the blighting effect of State control.

Matter of Pensions.

I have in mind as a single illustration the problem of pensions for city employees which is one of the most important questions affecting the building up of an efficient personnel. A pension is justifiable only as a means of rewarding long and faithful service, of working justice to employees, and of enabling the city to withdraw from the ranks of employment those who by reason of disability or superannuation are no longer fit to serve. On this basis one principle of justice should apply to all employees. Yet there are nine pension funds in the City of New York for city employees established by the legislature on the insistence of groups of employees, no one of which expresses the point of view or sense of responsibility towards the problem of the city or its officials, no one of which is interwoven with the whole scheme of city service which the city is called upon to carry on, but all of which are so ill-designed and badly constructed as to threaten to defeat the purposes for

which they were established, and to impose upon the taxpayers of the city an unjustifiable burden.

Solution of Pension Problem.

There should be opened up for discussion in New York City the question of compensation, employment, civil service training, promotion and pensioning of city employees. Nothing would so much bring home to the people of the city the magnitude, character and importance of city work. This could and would be done under home rule.

Now these great questions are settled indirectly without local discussion, without education of public opinion, without correlation of one part of the problem with another, merely because the legislature chooses to act, and the representatives of the city choose to acquiesce in its action.

The legislature cannot express the will of the city nor respond understandingly to the needs of the city. The Brown Legislative Committee in its report assumes a position often taken that the legislature is to be relieved of blame for legislation injurious to the city, because members from the city acquiesced in its passage. This view represents a double fallacy. In the first place, the legislature as a whole passes statutes affecting the city and may not escape responsibility because city representatives urge or approve it. The whole argued virtue of State control lies in the power of the legislature as a body to exercise its wisdom regarding local affairs. In the second place, approval of city members does not cleanse city legislation of impropriety if it is oppressive and unsound for the reason that the members not chosen on city issues, have no responsibility for city results and are generally woefully ignorant of city affairs. It is one of the absurdities of democratic government that an often ignorant and mediocre person assumes an air of wisdom concerning matters of which he is totally uninformed merely because he has been accorded a seat in the State legislature.

Means Popular Government.

Home rule government means popular government, government expressing the intelligence, judgment and experience of the community. It means that local officials will take their commands from their constituents. It means that local elections will be decided questions, their results dependent on the local authority for solution. These things cannot be achieved under government handed down through acts of the legislature.

Let me in summary, therefore, put down three principal aspects of home rule:

1. It imposes restraint upon the legislature of the State with respect to the passage of measures affecting cities.

2. It grants by constitutional right as opposed to legislative authority, certain definite powers to municipalities which the legislature may not abrogate.

3. It authorizes the city to frame its own charter.

Home rule is the logical consequence of the coming of age of American cities. There are two great governmental changes occurring in the United States. State governments are undergoing a rebirth with the assumption of larger duties. Cities are emerging from disorder and

neglect to vigor, effectiveness. In New York these changes are conspicuously on foot. The State government is creaking and groaning under its archaic and cumbersome methods, but is approaching a realization of the need for vigorous reconstruction. New York City's government is perhaps the most efficient, well-managed governmental agency in America.

Tables are Turned.

From the standpoint of government effectiveness, fifteen years ago the government of the State was vastly superior to the government of the city. Now the tables are turned. The average public official in New York City is infinitely better equipped to protect the interest of the city, and certainly more directly authorized to represent its desires than is the average State legislator.

The business of city government in New York, as in other parts of the United States, has become too important, too complicated, to be regulated by hard and fast inflexible State rules. The business of the State has developed to such an extent as to demand the undivided attention of legislators. Because of the mutual interest of city and State, it is important that State governments be relieved of the necessity of dealing with city problems in detail, and that cities be armed with power to deal with these problems themselves. Home rule then fixes in the fundamental law of the State the relation of State and city. The home rule section of the State constitution declares what are the things over which the people of a locality organized as a city shall have complete jurisdiction, in what matters there shall be joint jurisdiction between city and State, and when the State shall have paramount exclusive power.

Ohio Best Example.

Thus it is provided in the constitution of the State of Ohio that the legislature may pass general laws for the government of the cities to become operative only on the option of the cities themselves as in the case of the Walsh Act in New Jersey. But cities may also frame their own charters if their electors desire to do so.

In Ohio, which is the best example of home rule yet achieved, cities are given authority to exercise all powers of local self-government and to adopt and enforce within their limits police and sanitary regulations not in conflict with general laws. Power to acquire, contract, own, lease and operate utilities is specifically given; cities are authorized to adopt or amend a charter; to acquire property by condemnation in excess of the area to be occupied or improved, and to sell such excess.

But to the legislature the constitution specifically reserves the power to limit the authority of cities to levy taxes and incur debt. It is also specifically provided that elections shall be conducted by election authorities prescribed by State law.

State Also Profits.

No constitution grants fuller home rule powers than does Ohio and many of them go no further than to prohibit special laws and to grant the power to cities to frame their own charters. I have said that cities are not alone benefited by home rule, but that the State also profits. This point deserves emphasis. In submitting the

new constitution for the State of Michigan, the committee declared that one of the greatest evils brought to the attention of the convention was the abuse practiced under special legislation. Said the committee: "The number of local bills passed by the last legislature was 414. The time devoted to the consideration of these matters and the time required in their passage imposed a serious burden on the State. The evils of local and special legislation have grown to be almost intolerable, consuming time and energy which should be devoted to the consideration of measures of a general character."

Population in Cities.

It is impossible for a State government to give adequate attention to the business of cities demanding legislative consideration in non-home rule States and at the same time to govern the affairs of the States themselves with efficiency. New York furnishes a striking illustration of this difficulty. About 75 per cent. of the population of the State resides in cities. The City of New York itself contains 32 per cent. of the population of the State. The legislature is so much concerned with the government of cities that for several weeks, now extending well into the session of the legislature of the present winter, the leader of the Senate and a number of his colleagues were obliged to devote day after day of their time to the study of local municipal problems. With these problems long ago fully understood by responsible city officials thoroughly competent but legally powerless to deal with them they have no concern except as they are called upon as strangers sitting in the legislature to pass laws affecting local questions in the City of New York.

While the chairman of the finance committee of the State Senate is required to devote his thought to New York City affairs for which competent officials have been elected, there awaits his attention a complicated, and disordered mass of State business which never yet has been placed on a basis equal in efficiency with the management of the leading cities of the State.

State Relieved.

The justification of home rule, therefore, lies not merely in the resulting benefits of cities, but in the liberation of the State from initiative responsibility for the government of the cities in order that the State may be better governed.

New York came nearer to obtaining home rule last autumn than before in its history. The proposed new constitution contained a home rule amendment that would have been a very far reaching step in the direction of city independence. Despite the fact that the voters rejected the constitution, the home rule provision is pressing of consideration now as a concrete expression of conservative opinion on this vital subject. No section of the constitution received more thought than the cities section. A score of home rule proposals were submitted to the convention, some of these exceptionally meritorious. Unfortunately, the cities committee finally adopted a compromise, adding one more half-way measure to a constitution that went down to defeat because of its compromises.

In this proposal cities were granted:

1. Exclusive power to manage, regulate and control their property, affairs

and municipal government, subject to other provisions of the constitution and the general laws of the State.

2. Power to organize and manage all departments, bureaus and other divisions of its municipal government, and to regulate the terms of employment of all officers and employees.

3. Power to revise or amend their charters.

It was provided, however, that any amendment affecting the frame work of the government must be submitted to the approval of the legislature. No definition of the term "frame work" was included so that uncertainty must have arisen in the application of this provision.

The legislature was prohibited from passing special laws of any character relating to city government, and the existing provisions allowing special legislation with a local suspensive veto was abolished.

Mayor Mitchell who has devoted a great deal of attention to home rule questions since his election as mayor takes the position that a home rule grant to be substantial must include a specific recital of those powers which the courts have heretofore had difficulty in distributing between the city and State under vague home rule clauses.

Mr. Mitchell prefers a form of home rule provision in which cities are given power to draft and adopt a charter, but pending such adoption remain under the control of the legislature. Cities adopting home rule charters may provide for the exercise of certain specific enumerated powers including:

1. The organization and management of all departments and other divisions of the government, the power being reserved to the legislature by general laws to regulate civil service rules, hours of labor, etc.

2. The organization of a department of education, but the legislature to retain control of all other matters relating to education as now.

3. The nomination and election of city officers.

4. The purpose and manner of the power of eminent domain.

5. The exercise of the power of taxation, according to general State law.

6. Control over matters relating to the acquirement and improvement of streets and other public places.

7. The enactment of local regulations under the police power not in conflict with general laws.

8. Grant of jurisdiction to courts in respect of any matter that is made the subject of regulation by charter, but such grant may not be in conflict with State laws.

9. The acquirement, construction and operation of any public utility—a power wholly omitted from the proposed revised constitution of 1915.

10. The manner in which public utility franchises may be granted and the limiting conditions affecting them.

Taxpayers in the city can bring home rule about if they desire it. Let them organize a

home rule conference. Let them not intermingle in the demand for home rule questions of politics. Let them start with the assumption that the people of the city, if they have the matter properly presented to them, will support the cause of efficient government.

The present legislature should adopt a home rule amendment. It will adopt it if the people of New York through their organized bodies demand it. A state-wide educational campaign in which all the cities of the State might cooperate, should be conducted to persuade the people of the State that home rule does not mean injury to the interests of the State, but the State's advancement through the advancement of the government of its cities.

The legislature now has power to grant New York City complete authority over all its expenditures, \$49,500,000, of which in 1915 were controlled and directed by mandatory State laws. The Brown committee proposes among other measures for remedying existing defects objected to by the city representatives to grant to the city government power to fix all salaries and to regulate the expenditures of the county government, provided the people of the city approve this corrective legislation on referendum and without referendum to vest in the city full power over the expenditures of the Water Supply and Court House boards. Apart from the wisdom of submitting half-way measures in reference to the broad subject of home rule to a referendum vote the recommendation at least recognizes the impropriety of certain existing conditions. The committee also goes to the extent of proposing to grant to the Board of Estimate power to consolidate departments and to change the internal organizations of the city government. This step will aid the city, but what is needed is a constitutional amendment definitely fixing the status of the cities throughout the State. Such an amendment must pass two successive legislatures and then must be submitted to the people on referendum.

Would Exercise Functions.

Under home rule the Board of Aldermen would probably exercise the functions of a local legislature. Personally I believe the Board of Estimate to be really better equipped for charter modification than the larger board. But neither board should have the power to alter the general structure or outline of the city government, nor

to prescribe the method of selecting elected officials. These matters should be determined by electorate on the recommendation of a charter commission, either popularly chosen or named by the Mayor.

The problem of charter-making should be taken up at once with vigor. The people should have in mind that home rule does not mean merely a condition of blessed independence, but authority to transform this independence into beneficent results. What is needed is a transformer. Badly organized city government cannot effectively transform public will into efficient results. Therefore, a first requirement is the organization of a government for service. No group of men in America is better equipped to frame a plan of government for New York City than those who have conscientiously devoted themselves to the betterment of its administrative affairs for the last ten years, among whom are the principal officials now in power.

New York should not miss the existing opportunity to utilize this experience and independence of thought in reconstructing its government.

Nothing that the legislature on its own initiative has done for it within these limitations in recent years has promoted either efficiency or economy in city management. All advanced steps have been taken on the initiative of the elective officials of the city. Many of these steps have been postponed or defeated because of the lack of power in local authorities to effectuate them.

Governmental efficiency will cease to be a taxpayers' abstraction and become a citizen demand when the public is able to think of local government in terms of ability to act rather than in terms of impotency.

Give the people of the city an opportunity to take part in framing the government of the city and deciding on its policy, and you will have a new character of public opinion which will work day in and day out for better management of city affairs. Home rule, therefore, seems to be an essential part of the constructive program for better government in New York City. It is a prerequisite to lifting New York's government to first place among the municipalities of the world.

I am about to publish a report which will suggest in detail what in my judgment would be an effective organization of city government for the exercise of home rule powers. In order not to anticipate, I will not discuss the reconstruction of the government in this article.

UNIFIED FORM OF GOVERNMENT FAVORED

Home Rule and a Free Hand For City's Officers Will Redeem Town From Debt Entanglement and Excessive Taxation

By WILLIAM A. PRENDERGAST, Comptroller, City of New York

THE question is asked with more or less regularity whether the City of New York should have greater local authority over its own affairs, and if so what steps are necessary to obtain emancipation from encumbrances of the Legislature tending to interfere with the proper administration of local affairs.

There is no question in my mind but that the city should have Home Rule. With this

the last six years the city officials have tried to find the right men for the right places, with salaries in proportion to their work. In many instances they have succeeded.

I also advocate the abolition of county lines within the city. There is no possible excuse, except piling up political patronage, for continuing a triple form of municipal government. On the other hand there is every reason why the business now conducted in five counties, separately, should be transacted more efficiently and economically in centralized departments that would do away with wasteful fee systems and payroll padding.

There should be no line of demarcation between the city and county governments, especially as all the expense must be borne in the city budget. The city should be given the exclusive jurisdiction over the expenditures. I have studied this situation for the last six years and have failed to find any detriment to the abolition of county lines.

I also favor the wiping out of the various borough governments. One government in one city is quite sufficient. It is difficult enough to get that one right, without trying to find five separate sets of officials to do the work. This is expensive and in the final analysis the taxpayer looks only to the budget.

New York is so great that most people do not understand her and attempt to measure her by standards that apply to other cities. These fail utterly when subjected to the gigantic and complex problems of our city.

New York is an evolution, not a creation. She has developed faster than her sister cities or her parent state. The immense wealth and interests that have settled here and her situation as a seaport and commercial capital of the country have created an individuality that is distinct and peculiar to herself. To meet the problems and obligations that go with such distinction, she should be unfettered in the management of her own affairs.

This general introduction is offered to explain why an exact enumeration of all things necessary to accomplish a complete independence in local affairs might always be open to criticism, for a power granted this year, adequate to meet the problems of the present, may prove inadequate in a few years through the development of new activities.

Always with those conditions in mind, I have endeavored to prepare answers to the questions submitted.

Question 1.—What legislative enactments will be necessary to confer this (full local control of expenditures) upon the Board of Estimate and Apportionment and the Board of Aldermen?

This may be accomplished in one of two ways. First, by constitutional amendment giv-



HON. WILLIAM A. PRENDERGAST.

unified form of government a distinct saving in money will result because the administration can be run with a less number of employees. In some cases legislation will be necessary to reduce the forces, but still the remedy lies in that direction.

Since 1899, when the first budget was made, the city population has increased 39 per cent., but the budget has grown in the same period about 104 per cent.

Home rule and a free hand for the administration officers of the city will redeem the town from its entanglements of debt and excessive taxation. Under the present conditions there is no practical way of reducing the budget. I believe that there will be a yearly increase and that 1919 will see a budget aggregating \$235,000,000.

If the administration and the people could agree on certain departmental consolidations, I think the Legislature would grant relief. For

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ing to cities the organic right completely to control local affairs. Second, by legislative enactment, granting to the city a charter broad enough to place complete authority in the hands of local officials and then refraining from amending the charter except upon the recommendation of the local officials in their official capacity.

A very short and simple charter creating a body corporate, defining its territorial limits and then conferring on a local legislative assembly complete authority to do all things necessary for the proper administration of local problems would, I believe, accomplish the result.

Question 2.—What is the present power of the Board of Aldermen over expenditures? Expenditures of the city are, broadly speaking, of three kinds: those authorized by the annual budget, those authorized by corporate stock or long term bonds, and those authorized by revenue bonds or short term notes. The power of the Board of Aldermen over budget expenditures is limited to the amount recommended by the Board of Estimate. The Board of Aldermen may reduce but may not increase the amounts recommended in the budget submitted to them.

Corporate stock authorizations originate in the Board of Estimate and on the recommen-

sidered or whimsically derided because some of its members have invited criticism and ridicule. The Board of Aldermen is the local legislature and, in theory at least, is the body through which the will of the people is most directly expressed. The basis of aldermanic power is really the neighborhood sentiment, the varying shades of local desire being reflected in the election of representatives familiar with the details of restricted localities and chosen as the voice of the locality in the general affairs of the city.

In the past New York City has been unfortunate in the selection of representatives in the Board of Aldermen. That, however, cannot be justly charged against the system of popular representation as a political principle. If the principle is accepted as affording the most complete means of direct representation, and direct representation is accepted as the best means of conducting public affairs, the powers of the Board of Aldermen should be enlarged by vesting in it exclusive legislative authority in local management.

Question 3.—What is the present power of the Board of Estimate and Apportionment over expenditures?

The answer to the last question is an answer to this.

GRAND SUMMARY OF TAX LEVY ALLOWANCES IN 1915 BUDGET. Discretionary or Partly Mandatory.

	Reasonable Expense	Rate.	Discretionary.	Total.	Budget Total.
City of New York.....	\$29,060,116.44	\$6.815	\$7,579,280.51	\$147,830.47	\$102,369,663.28
New York County.....	1,547,562.94	42.90/100	845,204.37	1,208,090.37	1,819,806,048.70
Brooklyn County.....	432,649.68	31.50/100	230,213.78	1,209,713.78	680,654.46
Kings County.....	1,029,853.52	159.00/100	229,060.00	266,290.00	1,907,152.52
Queens County.....	285,408.54	42.50/100	137,993.20	181,448.20	405,016.74
Richmond County.....	73,919.28	7.40/100	65,008.00	72,468.00	146,220.80
	\$34,047,889.91	\$7.402,794.28	\$7,579,280.51	\$140,440,812.82	\$164,321,806.01
Total for the Budget for 1915.....					\$194,980,788.92
Less approp. for amort.....			\$65,944,473.48	\$65,944,473.48	\$65,944,473.48
Amount discretionary exceeding amortization.....			\$2,505,320.34		
Am't discret. or partly mandat., excl. amort.....				98,577,423.13	
Total Budget, excl. amort.....	20.9%	8.00%	5.7%	67.7%	\$133,045,315.04

dation of that board, the Board of Aldermen may approve or reject the proposed appropriation. Revenue bonds originate in the Board of Aldermen and are recommended to the Board of Estimate, which may accept or reject the recommendations of the Board of Aldermen.

Whether or not this power in the Board of Aldermen should be increased raises a question that goes to the form of government in the city. The foundation upon which the Board of Aldermen was created is the principle of popular representation. The Board of Aldermen is a very ancient institution. In New York it is as old as the city itself. The first official title given New York by the Nicolls Charter was "The Mayor, Aldermen and Sheriff." As an institution it has been a part of our local government since the beginning, and no institution which has received the sanction of centuries should be lightly con-

sidered or whimsically derided because some of its members have invited criticism and ridicule.

Question 4.—How large a part of the last budget did the board authorize? Strictly speaking, it did not authorize any part of the budget. As already explained, the budget is the result of co-ordinate action. For 1916 the Board of Estimate and Apportionment recommended \$212,956,177.54. The Board of Aldermen made reductions which were voted by the Mayor. The budget as recommended by the Board of Estimate and Apportionment therefore became the budget for 1916.

Question 5.—How large a part was authorized by the Legislature?

The purpose of this inquiry, I fancy, is to ascertain the percentage of the total budget that can be attributed to mandatory legislation. As the city derives all its powers from the Legislature, a literal answer to the question must be that the entire budget was au-

thorized by the Legislature. To ascertain what proportion is mandatory, the inquiry should be, what part was directed. To provide an answer it is necessary to consider an element frequently disregarded by persons who speak or write of city affairs. The budget is composed of four elements bearing on the question.

First, obligatory expenses as distinguished from mandatory. These embrace interest on and amortization of the public debt. The city, as a general proposition, is authorized and not commanded to create debt. Some functions imposed by law carry necessary obligations that the city cannot control, such, for example, as the Board of Water Supply, but the creation of debt for local improvement is usually permissive.

When the city creates a debt, it assumes an obligation to pay it, for the law imposes that obligation. The city need not as a matter of law create a debt for the creation of a stable for the street cleaning department. It is within the discretion of the local authorities to determine to what extent they will engage to keep the streets clean. But once the policy of a comprehensive system is determined and the debt incidental to the creation and maintenance of a proper plant is created, the obligation to discharge it becomes a matter of law. Provision must be made for it in the annual budget. It is classified in the budget as debt service. The amount including tax deficiencies in the 1916 budget is \$67,213,210.11.

Second, mandatory expenses. Mandatory appropriations are those commanded by law to be included in the expense of the city. The salaries and expenses of the courts, for example, are mandatory, so are the expenses of many of the county offices and some commissions, like the Bronx Parkway Commission.

Third, necessary expenses. In addition to items directly imposed by law are others which are necessary and therefore mandatory. For example, a law may not prescribe in terms that a court or a commission shall have suitable office equipment, but as such things are necessary to a proper discharge of the duties imposed by law, reasonable provision must be made for them.

Fourth, discretionary expenditures. The word discretionary is not especially appropriate, for while it is true that the city might lawfully decline to make any appropriation for, let us say, the Department of Bridges, public safety and comfort demand that there shall be a sufficient appropriation to maintain the bridges in proper condition. So, while the total of such appropriation is to a certain extent within the control of the local officials, the demands of the present state of society require a sufficient appropriation and to that extent it is mandatory.

The Commissioners of Accounts made a detailed analysis of the 1915 budget, designed to show the relations of various departments of the budget. The figures for 1916 are, of course, different, but substantially the same ratio remains. The appended table is self-explanatory.

Question 6.—Does the Legislature interfere with only certain classes of expenditures or does it interfere generally in a meddling way without definite policy?

I would not go to the extent of saying that the Legislature enacts laws merely to be meddlesome. Whatever it does is doubtless the result of what it deems to be for the best interest of the State. Legislative enactments are not confined to any particular branch of city affairs. We have mandatory laws fixing salaries, creating offices and independent commissions and directing appropriations to societies that are beyond control of the city government.

One of our most important problems is the effect of general laws which exact taxes from sources that should be returned to the city as revenue. For example, the Highway Law imposes a registration fee on all automobiles and provides penalties for violations of the law. The total revenue from such source was, in 1914, about \$1,500,000. A little less than one-half of all the vehicles registered are owned in New York City, but all the revenues go to the State and are appropriated by the State for the maintenance of State highways. The city receives no part of the highway appropriation.

Here is an example of the wealth of New York City creating a source of revenue that the city is not permitted to enjoy. It is true that these machines do not confine their operations to the streets of New York City, and it is equally true that our neighbors from the country possessed of machines usually honor us with a visit, if within speaking distance of the bright lights. But New York City does not get a penny of this revenue that flows from her wealth.

Cases of violation are heard in courts supported at the expense of the city, but the revenues from fines and penalties are paid to the State. Moreover, the city is prohibited from adopting any ordinance imposing any fee on automobiles, except those that are used as public conveyances. The city, however, is obliged to bear the expense of the additional wear and tear that such vehicles cause to pavements.

A bill has been introduced at the next session to license motorcycles. The revenues go to the State, but there are elaborate provisions for the hearing of violations in courts supported by the city. The actual revenue from this source will probably be small, but the bill is cited as an example of the manner in which the city may be deprived of its due through agencies other than those imposing direct obligations.

Question 7.—If it is conceded that the Legislature should maintain control over local matters, what are those matters?

As I said in the beginning, a detailed enumeration would doubtless be open to the fault of omission because of the uncertain nature of complex problems. The State militia is clearly a department that should be controlled by the State, but it is primarily for the protection of the State as a whole and not of the city as a unit, the city should not be obliged to meet

the entire expense of maintaining armories for the organizations in the city. It is common knowledge that in times of riot the militia from this city is called for the protection of other parts of the State. This is proper, but for that protection the State should contribute and not compel the city to bear the entire expense of maintenance.

Question 8.—What should be the inter-relation of functions between the Board of Estimate and the Board of Aldermen as regards expenditures?

This question, like the second, goes deeper than the mere official relation of two bodies conducting public business. I have said elsewhere that New York City is an evolution rather than a creation. Let me illustrate by endeavoring, briefly, to outline the conditions that brought the Board of Estimate and Apportionment into being.

The Charter of 1873 appointed the Mayor, Comptroller, President of the Board of Aldermen and President of the Department of Taxes and Assessments, a Board of Estimate and Apportionment to estimate the expense of conducting the City and County of New York for each ensuing year. When such estimate was completed it was submitted to the Board of Supervisors, who fixed the tax based on the estimate. That Board of Estimate and Apportionment acted for the entire city and was probably the first board of the name to have such authority. Making the estimate was its principal function. Prior to that time there had been boards charged with the duty of preparing and certifying estimates for particular departments. The Governors of the Alms-house and later the Commissioners of Charities and Correction had such authority, but their functions were limited to their own departments and lacked the authority to make the estimates for departments as a whole.

In 1871 Tweed and his cohorts obtained firmer control of local revenues through the creation of a Board of Apportionment. That act, known as the two per cent. law, provided for an assessment not exceeding two per cent. on valuations, the aggregate not to exceed \$25,000,000.

The Mayor, Comptroller, Commissioner of Public Works (Tweed) and president of the department of public parks were constituted a board of apportionment. After making provision for certain bonds and State taxes, the board was to apportion the remainder among various departments for purposes of city and county government.

It had been the practice for the Legislature to name specific amounts appropriated to each city department, but the creation of the Board of Apportionment placed the entire tax levy in the hands of local officials.

Whatever suspicious motives may have prompted the vesting of that control, the act was the lineal ancestor of the present board and a very decided step toward home rule.

In 1864 the Counties of New York, Kings, Westchester and Richmond, and the Towns of Newtown, Flushing and Jamaica in the County of Queens were territorially united under the

title of "The Metropolitan Police District of the State of New York."

The Commissioners of the Metropolitan Police and the Comptrollers of the Cities of New York and Brooklyn were created a "Board of Estimate and Apportionment." They were directed to annually make an estimate of the expense of conducting the police department for the ensuing year. This was probably the first board of that name although similar functions were vested in the Board of Apportionment.

In recent years there has been a tendency to regard the Apportionment branch of the family name as a clumsy appendage having no particular significance. The statute explains how appropriate and important was the function of apportionment to taxpayers as distinguished from public departments which were principally concerned in the apportionment of 1871.

Having prepared the estimate, the Board was directed to submit it "accompanied with a written apportionment * * * of the proportion of expenses applicable to each city, county, town or village in the Metropolitan police district interested therein in the ratio of the number of patrolmen authorized. * * *"

The estimate and apportionment were then submitted to a Committee of Revision composed of the Presidents of the Board of Supervisors of the Counties of New York, Kings, Westchester and Richmond, of the Board of Aldermen, Brooklyn, and of the Supervisors of the Towns of Newtown, Flushing and Jamaica.

With local pride and prejudice contending for adequate protection at smallest cost, it is not difficult to picture the importance of the apportionment as applied to the conditions then existing.

This excursion into the past has been undertaken to show that until within comparatively recent years the function of the Board was only to prepare estimates of the cost of government and not to exercise any administrative or legislative functions.

The questions asks what the correlation between the Board of Estimate and the Board of Aldermen should be. I have endeavored to show such relations in the past with the reasons that prompted them.

Each had its reason and its purpose. One was designed as a check on the other. In recent years the powers of the Board of Estimate and Apportionment have been enlarged; those of the Board of Aldermen diminished.

Vesting almost absolute authority in a small governing body is the commission form of government. It has its advantages and its disadvantages. Benevolent despotisms have their advocates, but benevolent despots of the right sort are not always available.

With our present system power is balanced, perhaps not as accurately as it should be, and aggravating delays sometimes mark the most sincere efforts toward public progress, but this division of authority, however unpleasant it may be to the personal enthusiasm for honest endeavor, is a sobering factor.

In principle it is sound and if the city were given complete control of its affairs such adjustments as might be necessary to secure the

most satisfactory results could be made by the Board of Estimate and Apportionment and the Board of Aldermen.

WHY WE DO NOT HAVE HOME RULE

Same Principles Should Apply, to City and State
As Govern Between State and Federal Authorities

By DR. FREDERICK A. CLEVELAND, Director, Bureau of Municipal Research

WHILE there are certain points of the local administrative and financial problem in which Mayor Mitchell's demand for home rule centers, it may be of value to give a wider perspective to the issue. Fundamentally, the struggle for home rule has in it nothing new. It carries with it an issue over which men have disputed for centuries—the question as to where the jurisdiction of the State shall end and the jurisdiction of the city or other local government shall begin. This was a factor in the politics of the

regulation of commerce, that affect the welfare of the nation as a whole, together with those activities which are general in application and which cannot with equal advantage be administered by state government, should be administered by the federal agency; those activities which are general in character but which can best be administered by states should be so conducted; the functions and activities that have to do with the well being of local communities should be left to local government—the State retaining only such an overlordship as will contribute to good administration.

This is an ideal which has been departed from. In this State and other States, legislation having to do with cities and other local governing units has not infrequently turned on quite another point. It is not because anyone thinks that the question as to what salaries New York City pays its teachers is primarily a State-wide matter that we have State legislation on the subject. It is not because the Legislature at Albany is better qualified or is more closely in touch with the police problem of New York, with the local street cleaning problem or the local fire fighting problem, than men run to Albany for legislation.

What is usually overlooked is the fact that the demand for legislation which interferes with the principle of home rule originates in the locality affected. The reasons for this local demand relate to one or the other or both of two assumptions: (1) either that the local authorities cannot be trusted, (2) or that the legislative is a more favorable instrument for the protection of special interests. The first assumption is a fundamental defect in all our political thinking—it is reflected in all our constitutions and charters. It has been made, however, in what has been conceived to be the interest of common welfare—is a result of patriotic impulse. The second assumption on the other hand, is selfish and unpatriotic—an outgrowth of local organization for spoils.

Let us consider first the assumption that the local authorities cannot be trusted. This is inherent in the thinking of the American people. They distrust all authority; they distrust everybody and everything connected with authority; they even distrust their own electorate. Our government was conceived in distrust—and to this end our constitutions and charters are looked to, to prevent those in authority from doing harm.

This observation is not made to detract from the value of those great charters which were worked out by our forefathers. But their title to renown lies in the protection which they have afforded to the liberties of the people.



DR. FREDERICK A. CLEVELAND.

Roman Empire, in the middle-age-adjustments with feudalism, in the struggles for constitutional government in England. The best that can be hoped for is that as much of self-government will be left to the citizens of each locality as is compatible with the purposes of the broader establishment. In making decision as to where the line of authority shall be drawn, exactly the same principles should govern as between State and Federal authority—viz, each jurisdiction should do the things it is best fitted to do with as little interference as possible. Subject to the more general principle of unity of parts, each should do the things that primarily affect its own constituency.

Services, like diplomacy, national defense,

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ple. As charters of liberty, American charters and constitutions are among the world's masterpieces of political thought; as charters of incorporation for doing business (the business of the people), they are among the world's greatest failures. And they are failures for the reason that popular distrust of government caused our constitution makers to seek protection in the emasculation of authority—in putting limitations on the exercise of powers, instead of giving to officers the powers needed to make them effective public servants and at the same time adopting devices to make them responsible and responsive to the will of the people.

This is the thing that distinguishes our political development from the political development of England, France and other countries which have responsible governments. Up to the time of the American Revolution, English government was not responsive and responsible; that was the reason for our revolt. We sought to protect our liberties first by revolution, then by a process of emasculation; they have also had their revolts, but these have been followed by developing methods of effective popular control without emasculation. And as popular control has been made more effective, as confidence has grown, the powers and functions of the government itself have been increased.

Observe how these two systems have worked out in local as well as in state government. To the very extent that control over the government has been perfected, to the extent that the government was made responsive and responsible, the people came to trust their executives and legislatures. Under a system of effective popular control only such men could continue in office as were trusted by a majority. The result has been, the government had the means of knowing at all times where a majority stood on every question; and the people could force the retirement of officers who did not have the majority back of them. The reaction has been one of mutual trust. Our officers, on the other hand, have had no way of knowing whether a majority is back of them on any question while it is under discussion; the people have had no way of enforcing responsibility and making the government responsive. In America there has been a growing distrust, a growing discontent. An administration is seated by a majority, then there is a cumulation of dissatisfaction and distrust until the end of a fixed term, say four years, when the thing to be expected happens; the electorate "turns the rascals out."

Since there is no provision made for keeping the government and public opinion in adjustment—no way of enforcing the opinions of a majority of officers—increasing distrust has caused the people to go to the State capital to get measures adopted which will operate to take away from the local officers powers which they alone should exercise. Thus the balance between local and State governments is destroyed. Home rule is sacrificed on the altar of popular discontent—the result

of a plan of political organization that does not provide for responsible administration under adequate popular control.

The fact of popular discontent with local authorities and of the irresponsibility and irresponsiveness of State officers give to the special interests their opportunity. This accounts for the success of the lobby, which is maintained at the State capital to get measures through that will give to the promoters their advantage at the expense of the local community.

Some of the evils of the system may be mitigated by the vigilance and the organized efforts of local officers, but so long as the people seek protection by emasculation of the government itself—by refusing to give to officers the powers which are necessary to efficient administration—any effort to obtain home rule can do little more than give temporary relief.

How can the people be expected to be satisfied with the results obtained by an administration organized as has been that of New York City? The first process was gradually to limit and hamper the mayor, and to deprive him of powers, till he was reduced to an impotent figure-head. The activities of the government were directed and controlled by committees of the Board of Aldermen. Dissatisfaction with the irresponsibility, the irresponsiveness, the inefficiency, the infidelity and waste of public resources under this form of government finally expressed itself in a charter that took not only the administrative, but also most of the important legislative powers away from the aldermen and placed them in the hands of a Board of Estimate and Apportionment. While this was measurably better in that a majority of the board was required to answer to the electorate of the whole city and the minority was answerable to borough instead of ward constituencies, still the present charter cannot stand the test of experience longer than it takes to convince the people of their mistake. The underlying theory of present organization is still distrust. The controlling principle is to prevent officers from doing harm by limitation of powers. The charter still does violence to every principle of effective organization; it still confuses responsibility; it still provides no effective means of popular control that is consistent with efficient handling of affairs.

What would happen if the stockholders of a corporation were to provide in their charter for a commingling and confusion of board with executive responsibility? What would happen if they were to provide for the election of seven executives, each one as executive responsible for only a part—with no provision for leadership, no provision for enforcing solidarity of action and unity of policy, or for the enforcement of discipline—with no way of knowing what is the will of a majority on any of the great questions of policy to be decided until it is too late? What would happen is just what is happening in the City of New York. Each executive would look out for himself. There would be lack of

harmony, lack of solidarity of action and lack of current adjustment of policy to demand. At the end of each four years when the next election came around, the chances would be ten to one that the stockholders would turn the officers out, attributing faults of administration to them instead of attributing them to bad organization. Furthermore, each time the State legislature met, dissatisfied stockholders would run to the capital to get legislation to curb the powers of their corporate officers. In New York this legislative interference not only takes the form of further curtailment of powers, but also imposes mandatory requirements. By analysis of the 1915 expenditures it is found that \$50,000,000 was appropriated for objects that are the subjects of mandatory legislation. Of the remaining \$149,000,000 only about \$60,000,000 was for purposes within the control of the mayor—yet the voters will hold the mayor responsible for all of the increases in the tax rate.

While something may be done to relieve the present financial situation through the repeal of certain mandatory legislation, the only

way to get home rule and to keep it will be to obtain a charter revision which will enable the city to have a government organized on such lines that they may have a full-fledged responsible executive, with powers of representative and electoral control, adapted to enforce responsibility and to make the executive responsive to the will of a majority—and what is quite as important, provide a means whereby the executive may know whether he has a majority back of him all of the time. This will enable the administration to have some continuity of policy because public opinion so far as it lends support will be a continuing force.

If we may have a government in which trust may be substituted for distrust, then home rule and state authority may be adjusted on sane lines. Until we have a charter revision that provides for a responsible executive with adequate machinery for making the administration responsive to the will of the people, it may be confidently expected that bills will be sent to Albany each year that are opposed to this principle of local autonomy.

LOGICAL REMEDY FOR STATE INTERFERENCE

Charter Changes Needed to Protect Government of City of New York from Local Appeals to Legislature

By DR. FREDERICK A. CLEVELAND, Director, Bureau of Municipal Research

PART TWO.

LET us keep in mind this fact: that the laws which are denounced as violating the principle of home rule seldom result from appeals originating outside the city. Legislation imposing restrictions and mandatory requirements on municipal authorities in almost every instance springs from local initiative—is based on applications of citizens of the locality. These citizens are of two classes: (1) Those who distrust their officers, and (2) those who wish to take advantage of defects in organization which give rise to this distrust, and who seek thereby to further their own selfish ends. As set forth in the preceding article, this is the necessary result of charter defects.

Whether critical judgment or suggestion of remedy is called for, the only appraisal of the present charter worthy of consideration is one based on known and accepted standards for judgment. Otherwise, opinion can be little more than bald assertion.

Let it be first said then that the foundation upon which all our standards for judgment of defects, as well as proposed remedies, must be erected is democracy; the notion that the affairs of the city shall be managed in a manner to suit the wishes of a majority; and that the purpose of the charter is to provide the human machinery for doing the things the people of the locality want done. Reduced to definite formulae, this fundamental notion carries with it the following commonly accepted conclusions:

That all authority is derived from the people.

That the government is an incorporated trusteeship and exists only for the benefit of the people.

That the form or type of organization provided by charter should be such as is best adapted to the work to be done.

That the work of the government is to do well what the people want done—i. e., to be efficient in rendering such public services as the people desire the government to undertake for them.

That since neither the people as such nor the corporation as trustee can do anything except through human agents, it is necessary to provide in the charter for an organization made up of two kinds of public servants—those who are made responsible as doers, and those who are made responsible as determiners of the wishes of the people.

That servants, whether public or private, can be made responsive and responsible in only one way, namely, by the master retaining and using the power to hire and fire—i. e., to elect those to whom they will entrust their affairs, and to promptly retire from their service

those in whom they no longer have confidence.

All these are homely commonplace—they are conclusions of common experience and common sense that have in more stately language been set up and generally accepted as principles of the written and unwritten charters and constitutions of democracy. They apply to the most highly developed institutions which are premised on popular sovereignty. There are other conclusions of common experience and common sense that relate to that institutional method of exercising popular control known as the representative system or representative government.

Before stating the principles of representative government as distinguished from the more fundamental principles of democracy, let us reflect for a moment on the essentials of an organization for doing what the people want done without representation—i. e., let us consider the meaning of what is known as pure democracy. Here all authority is in the people here, even in its simplest form, as when the Pilgrims of the Mayflower organized themselves as a body politic, they organized a fictitious corporate body which was to perform the functions of trustee for the welfare of the whole community. Even in this simple type they found it needful to make certain persons responsible as doers, and certain other persons responsible as determiners of the will of the people. Here, however, in this small local community the people could come together in one assembly; but the people consented to certain persons acting for them as electors—to certain ones finding out and expressing for them what they wanted the government to do; and also to decide whom they would entrust with the doing—at the same time retiring those of their servants who were no longer trusted. For these purposes the people accepted or consented to certain persons—freemen—who would "vote" and thereby express the will of a majority.

Under these very simple, primitive conditions the things to be provided for in their charter, other than the settlement of private controversies, were to set out clearly: (1) who should be constituted "electors" (persons charged with no responsibility for doing, but only with determining); and (2) who should be the "executive" and what should be their powers. But as a matter of enforcing responsibility it is significant that they thought it needful that the doers be required from time to time to come before the assembled electors as determiners and give an account of themselves—at which time decision would also be made as to whether they were to be further entrusted with the people's business.

When the people come to be so numerous and widely scattered that they cannot meet at one place and conduct deliberations a representative system is adopted. Then another problem of organization presents itself, viz., the selection and

control of a personnel who will meet from time to time to act for the people in place of the "electorate." Under a representative system voters are not charged with the duty of meeting and passing upon what has been done and what is proposed by doers, and of deciding whether the people should continue to support their executives; this duty is put on a "representative body"—subject, however, to a right of appeal by either party to the "electorate." Such are the main essentials of a representative system, whether employed for purposes of public or private management.

As a result of many years of use of the representative system, certain additional conclusions are commonly accepted as principles of popular control. Those which may be used for purposes of critical judgment as to whether a particular charter or constitution is well adapted to making the government an instrument for doing what the people want done may be stated as follows:

The representative body must have complete independence—i. e., if it is to be effective it must be composed of persons who, like the electorate, have no responsibility for carrying out the acts and proposals which are to be made the subject of critical review and discussion.

Complete and accurate information about what has been done and what is proposed is an essential to a representative government quite as much as to a pure democracy—without this the government will not be trusted, because the doers cannot be held to account and the determiners cannot express the will of a majority.

Popular sovereignty can be made effective only when the people provide a means whereby they can directly or indirectly, "hire and fire" both the chief doers and those who are elected as determiners—i. e., responsibility to the people can be enforced only when those who are carrying on the work of the people are trusted and require those who are not trusted to resign.

The only effective way to force executives to resign on a vote of lack of confidence is to give to representatives control over the purse.

It is the duty of the representative body to adopt a procedure whereby they can develop complete and accurate information, but also carry all the facts and all decisions made by them to the people.

The only effective way to bring facts of administration before the representative body is to require that the doers (executives) come before the representative body and explain what they have done and what is proposed—i. e., to require that executives submit themselves periodically to being questioned by representatives of the people. In other words, the only way that has ever been found for inspiring confidence in a management under a representative system has been to require those who are charged with the conduct of affairs to meet with representatives so that they may openly

answer inquiries, complaints and criticisms.

The only effective way which has ever been found giving both to the officer and the people a square deal under a representative system has been to enable those executives who are not trusted by a majority of representatives to carry the cause to the people—i. e., to give to executives a right to force the opposition to come out and be counted and then give the right of appeal from the decision of a majority of "representatives" to the "electorate" as the final determiners of the will of the people.

The only effective way which has ever been found for preventing collusion between a majority of representatives and executives to defeat the will of the people has been to provide in the charter for a "fixed term," at the end of which both will automatically go before the electorate.

That the most effective way to prevent disturbances due to distrust in case of failure of the regular controlling devices to work within a period of official commission or "fixed term" is to enable the people to refer men and measures directly to the electorate by processes known as popular initiative, referendum and recall.

That the only way a vote can be taken on men and measures, whether in council or by electors, is to have the alternative so stated that decision can be made by a mark or by some form of affirmation or negation like a vote "yes" or "no," "for" or "against."

We turn now from principles, from our standard for judgment, to the charters under which our city governments have been organized. Let us apply this standard and record the results.

Some of our old form city charters set up a representative system. But they did not meet the requirements of organization for effective control. They provided for doing things; but they did not provide for having issues on men and measures to be voted on by the people. They provided for two of the nine assumed essentials, viz: for independence of the representative body from the control over the purse; but they violated the other seven. They did not provide for complete and accurate information; they did not prescribe a procedure for carrying facts and decisions home to the people; they did not require executives to submit themselves publicly to question by responsible representatives of the people; they did not give the executive opportunity publicly to face criticism and complaint; they did not require those charged with the conduct of public business to resign or go to the people in case of a vote of a lack of confidence by representatives or in case of refusal to vote further supplies; and, under these charters the people employed their servants for "fixed terms" without power to discharge them when they no longer trusted them; no provision was made for having issues on men and measures clearly defined so as to make the electorate effective to express public opinion. Under these conditions, public opinion could find expression only in an indirect and uncertain way, and the

organization for purposes of control was not well adapted to give the people confidence, either in their representatives or in the executive branch of the government.

The remedy for popular discontent with the single-headed appointed or elected executive was an appeal to the then highly rated republican principle of frequent elections for fixed terms. The slogan was "back to the people"; make all officers responsible direct to the people. Yielding to impulse and very bad advice, the people and their advisers both failed to see that the notion of the "fixed term" was only one of a number of principles essential to the building of an effective machine for doing the work of popular government. The machine did not work as it was expected; it didn't do what the people wanted it to do. The new device only added "confusion of executive responsibility" to all the then existing defects.

The remedy for popular discontent with the multiple executive was again charter change. But note what was done. Instead of doing what careful reflection or past experience would have indicated—instead of doing what recent experience has made plain, the people accepted the theories of inexperienced reformers. Because they had come to distrust executives, they turned the initiative, both the planning and passing on plans, over to the council, which in practice meant the aldermanic committees. This did not meet any of the requirements of good organization which had before been violated; it preserved all the defects of the existing political machines and added still another; it broke down the independence of representatives of the people—those charged with review of acts and proposals of the executives. Again the people began to grasp at straws, to take hold of anything that was held out that seemed to promise hope. In this relation it is of interest to note, however, that, according to the Bureau of Census report on cities for 1915, out of the 204 American cities of 30,000 or more people, 122 are still largely of this class. But among these are evidences of other struggles—of other grasping at straws. The principle of election of aldermen "at large" has been held out. Of the 122 cities above 30,000 which rely largely on aldermanic committees, 61 elect one or more at large—only one-half retaining the principle of election "by wards." But the important fact is that the election-at-large principle fails to give the people confidence in their city government.

The next step was to abandon the representative principle and return to commission government. Such advantages as had been obtained through the principle of election "at large" were retained; but all but one of the principles necessary to the making of an effective machinery for doing the work of representative government was violated. That is to say, commission government charters do not provide for an independent representative body; they do not provide for complete and accurate information; they do not provide for carrying facts and decisions home to the people; they do not require executives to come periodically before anyone to answer questions; they do not provide for representatives of the people who have no responsibility for acts to be inquired into nor give opportunity to executives to answer criticism and complaint; they do not make it necessary for executives who no longer

have the support of a majority of representatives to "resign" or "go to the people"; there is no independent control over the purse; there is no provision for getting propositions before the people in such a way that the public may be expressed by ballot.

The only principle that still remains is that of automatic return to the commissioners to the people at the end of fixed terms—although this will be observed, is not devised as a means of exercising current control but only to prevent collusion between representatives and executives in popular government. The principle is also usually found the principle of popular initiative, referendum and recall. But, again, this is only a safety valve against high pressure; it does not give a regulated device. Under the commission plan, after men have been once placed in office, there is no remedy for the ordinary things that cause people to distrust officers except to wait until the end of a fixed term and then "turn the rascals out." Furthermore, in most of these plans they cannot turn out all of the "rascals" at the same time, but they must wait and turn one out at a time.

The commission plan puts the people quite as much out of control as would a scheme of organization in private business in which the proprietor hired his heads of departments for a fixed term without power to discharge except for a cause that seldom operates, and then at a cost and upon information that would come to him in the form of neighborhood gossip. According to the United States government census, 81 cities of more than 30,000 population in 1915 were organized on this plan. It has proved superior to the old "aldermanic" plan because each person in power must ultimately go before the whole electorate. It has done away largely with log rolling, but it has given to the cities neither democracy nor representative government. It has brought the benefit of "new-born enthusiasm," but it is in fact a limited autocracy with power to do things effectively. An essential defect is that it contains little provision for making the electorate effective in its action.

In 1915 according to the Bureau of Census, two cities in the United States of over 30,000 population were doing business under the commission-manager plan. This is a return to the representative principle. It recognizes all of the cardinal principles of organization laid down except one, viz: while it provides for the immediate retirement of the chief executive, "the city manager," who is distrusted by a majority of the "representatives" of the people, it does not enable the executive to take his cause to the people. Furthermore, there is no procedure prescribed for giving adequate publicity to facts and proposals, to bring what has been done and what is proposed to the attention of the people. The first defect can be cured only by charter amendment; the second may be cured by ordinance, but may not as the responsible body is not made responsible and responsive to a degree to enable the people to impress this except in a manner that could as well secure a charter amendment.

The defects in New York City's charter have already been adverted to. By way of constructive proposal this may be suggested: Charter changes should be made that would adapt the organization of the government to the ends and purposes of a democ-

racv. This organization should provide for: (1) doing well, (2) what the people want done. This means that the executive branch should be so organized as to admit of handling efficiently the highly technical and complicated business of a city of 5,500,000 population, and which spends \$250,000,000 each year; it also means that the "representative body" should be so organized that it would be an effective instrument for public review and discussion of executive acts and proposals—for the development of complete and accurate information about the administration of the great public trust, for making this information available to the people, for defining and present-

ing issues, for the determination of whether men in office are to be trusted, for withholding funds from those in whom a majority of the representatives have lost confidence. In addition, the charter should provide a means whereby the executive who is not supported by a majority of the board could force the representatives of the people to go before the people for decision as to who and what measures in controversy will be supported by a majority of the electorate. This can be done either by the councilmanic mayorality system, or under a commission-manager plan. Each presents advantages and disadvantages which cannot be here presented and discussed for lack of space.

BUDGET MAKING FOR NEW YORK CITY UNDER A REGIME OF HOME RULE

By DR. FREDERICK A. CLEVELAND, Director, Bureau of Municipal Research

PART THREE.

IN the first article of this series, entitled "Why We Do Not Have Home Rule," this conclusion was reached:

"Until we have a charter which provides for a responsible executive, with adequate machinery for making the administration responsive to the will of the people, it may be confidently expected that bills will be sent to Albany each year opposed to the principle of local autonomy."

In simple terms a budget is a plan of financing next year's business.

The only way to keep the government of a city in adjustment with public opinion is to adopt a procedure which will provide for five things:

1. The preparation and submission by the executive of a plan for carrying on the business for the next succeeding year.
2. Giving publicity to the plan proposed.
3. Finding out whether the plan will be supported by a majority before it is approved.
4. Holding officers responsible for faithful execution of the plan, after it is approved.
5. Enforcing this responsibility by promptly retiring those officers who do not retain support of the majority; or, to put it in another way, electing and retaining officers who do have a majority back of them.

These are not alone the essentials of a home rule budget procedure; they are the five essentials of popular government; they are the essentials of any form of democratic government which is entitled to the continued confidence and respect of a majority of the people. Any city charter which provides for these five essentials will give the people a government which can be trusted—a government, which will be protected against the assaults of persons in the community who seek to gain a personal or partisan advantage through State or other interference. A charter which fails to provide these five essentials will be the victim of frequent and successful legislative attacks; it will prevent effective leadership for doing the things the people want done.

Comptroller Prendergast begins his article, published in Record and Guide, February 26, with this statement:

"Since 1899, when the first budget was made, the city population has increased 39 per cent., but the budget has grown in the same period 104 per cent."

The term budget, as here used is only a part of an official vernacular. As a matter of fact New York City has not now and never has had a budget. And this is stated on the authority of the Comptroller himself, who when out of the city at the conference of mayors last June said:

"We have been too prone to regard the annual statement of our appropriations as

a budget. It has enjoyed this name alone though no one who knows what a budget is has pretended to regard the (so-called) budget of New York, for example, as a budget in the true sense."

New York City's government is not trusted by the people, and officers who are trying to serve the city well often feel discouraged by reason of this fact. They are scarcely seated before malcontents begin to create unfavorable opinion, and to do this in a way such that officers cannot find out what is being said and done against them—without any provision made for bringing criticism into the open and meeting it publicly. The people here do not trust the officers because they are equally helpless; they hear the rumors, the gossip, the complaints circulated by irresponsible persons; they have nothing but garbled, one-sided reports; they do not have accurate knowledge of what is going on; they are not even kept informed about what is proposed. Officers of New York City have not yet completed the first step toward putting themselves in a position to be trusted—they have not fully met the first requirement of efficient management under a regime of genuine home rule. The citizens have never had placed before them, by executives, a definite financial plan—a proposed sailing chart for next year which officers are asking to have approved.

A budget as a business plan should set forth proposals in such form that it may be used as a basis for discussion and reaching decisions on these questions:

1. What is the city going to do?—Its proposed work program.
2. What does it need to buy?—Its proposed contractual relations.
3. What will be the total cost?—Its estimated expenditures.
4. Who will be entrusted with doing the work, making the purchases, vouching for expenditures?
5. What is the amount of money which must be raised?
6. How much should be raised by taxation and other forms of revenue, and how much should be raised by borrowing?

When officers present their requests for appropriations each year they do not present the information needed to answer any of these questions fully. What the Board of Estimate and Apportionment (as an executive council) attempts to do is to obtain statements and data on the cost of current operation and maintenance—that part of the city's expenditures which they will ask to have charged against such part of the revenues of the city as go into the "general fund"; they give a part picture of what work is proposed; they give a part picture of what they propose to purchase; they give a part picture of expenditures to be authorized; they give a part picture of amounts to be raised; they leave to inference what amount of the cost is to be met by revenue and what amount is to be met by borrowing.

But what has been accomplished is of vast importance. Until eight years ago the whole problem of city government was shrouded in mystery. The attention given to planning the city's current expenses (about 75 per cent. of the total annual cost) has completely revolutionized its methods. What Comptroller Prendergast might have said but did not say is this: If we take that part of public expenditures which has been made the subject of careful planning, reviewing and criticism each year during the last eight years, this is what has been accomplished:

The average annual increase in expenditures during the control of the board has decreased as follows:

	Per cent.
1903-1908 average annual increase.....	8.38
1908-1913 average annual increase.....	5.25
1910-1913 average annual increase.....	4.23
1910-1914 average annual increase.....	3.63
1913-1914 average annual increase.....	1.83
1914-1915 decrease.....	.34

If the same average rate of increase had been maintained as obtained during the years 1903-1908, the 1916 appropriation would have been \$30,000,000 larger than they actually are. When it is considered that the average annual increase in population is 3.51 per cent. and that the service given to the public has not only kept pace with population, but a large number of new services have been added, this is a very favorable showing. The parts in which there has been a steady and overwhelming increase have been those expenditures not included in annual estimates and reviews—in those things for which neither officers nor citizens have been conscious of a plan—in those things for which the city has had no provision.

Because the city had been short-sighted, had exercised little provision, when the great war broke out its finances became so far involved in international exchange that it was necessary to enter into an agreement which presumed some sort of future financial planning. Because the city had over a thousand million dollars debt, and had gotten nearly a year behind in its current revenues, it entered into an agreement with investors that it would adopt a policy of paying for non-revenue producing properties as it went along; and that it would get over to this basis in four years—by including in the next year 25 per cent. of all authorizations of this kind the first year (1915); 50 per cent. the second year (1916); 75 per cent. the third year (1917); and 100 per cent. the fourth year (1918). Being without a plan, however, in 1915, in order not to swell the tax rate, it included only about one-fourth the average annual expenditures and no one even noticed it. If the city goes on this way four years the present administration may escape unfavorable showing, but what will happen during the next four years when 100 per cent. of all authorizations must be included? Either the taxpayer must make up delinquencies or the pay-as-you-go agreement must be revoked.

This is not because the present charter does not give the Board of Estimate and Apportionment the power to make a financial plan each year. On the contrary, this is specified as one of the duties of the board. Section 226 of the charter requires the head of each department bureau and office to submit to the board each year "estimates" in order to enable said board to make a budget.

The duty of preparing and submitting a budget is imposed on the board, as an executive council, but there is no way of enforcing this duty. There is a further defect: The budget making body, the Board of Estimate and Apportionment, is so constituted that it is not responsible; there is no chief executive; the board is not a responsible cabinet; no provision is made to insure unity of action; it is organized on a theory of distrust; and has not over any representative body or authority for calling it to account.

In the present charter there is a mistaken notion of publicity requirement. The burden of criticism is placed on the public with no adequate provision for having the budget, as proposed by the Board of Estimate, explained, reviewed, criticised or discussed by the Mayor or any member. Another false assumption is that the conferences between the official subordinate and the executive officer is the occasion for publicity. The effective thing is not to require the Mayor or other executive to put his own subordinate on a spit and publicly roast him; but to put the budget makers on the spit after they have assumed responsibility for proposing and submitting a financial plan.

Not only is the charter defective in making provision for planning and for publicity, but it is also defective in that it does not provide for the other three essentials of responsible government. It makes no provision whereby the officer can find out whether a majority of the people or their representatives will support any proposed plan before it is approved; it makes inadequate provision for holding officers responsible for faithful execution of the plan after it is approved; it makes inadequate provision for promptly retiring executives who do not give a satisfactory account of their stewardship or who do not retain the support of the majority. Each of the members of the executive council (the Board of Estimate) is elected for four years and nothing short of removal by the Governor of the State or by court proceeding will vacate the office. The result is a piling up of popular distrust and discontent till the end of a four-year term when action by the electorate is both unintelligent and indecisive of any issue. Under such circumstances there can be no such thing as effective home rule.

The fact that the charter is defective does not mean that the members of the Board of Estimate and Apportionment can do nothing to make a budget procedure effective.

1. The Board of Estimate can make a budget—it can prepare and submit each year a carefully prepared plan which can be understood, criticised, discussed and voted on by the Board of Aldermen; and in case there is a dissension in the board it can submit a majority and minority reports.

2. The Board of Estimate and Apportionment can prepare its proposed budget in such form that majority and minority members can explain its "work program," its "improvement program," the proposed terms and conditions governing purchases and contracts, its "revenue and borrowing program." Both the majority members and the minority members can go before the Board of Aldermen to answer

questions and defend the plan submitted in their majority and minority reports. The meetings of the Board of Aldermen on the budget (if one is prepared and submitted) can be made a real forum.

3. The Board of Estimate has power to raise and discuss real issues; to make news out of questions raised concerning past expenditures as well as proposals for future expenditures, revenue and borrowing measures. They can make it possible to find out whether the budget proposals of a majority of the Board of Estimate and Apportionment are supported by a majority of the representatives of the people in the Board of Aldermen.

4. The members of the Board of Estimate and Apportionment can work out a charter amendment which will give to them an opportunity to locate and to answer publicly the "opposition" of their measures; they can propose an amendment which will enable them to know whether they are supported by a majority of the electorate in case a majority of the Board of Aldermen votes against the plan submitted.

The reason why executives have been given a four-year term is to enable them to become familiar with the duties of their offices and to be more efficient as managers. Four years is

too long a term for an officer who is distrusted; it is too short a term for one who is trusted. Given a means whereby public opinion can be kept behind an administration, an election is only a method of expression of continued support of effective leadership. Such a method brings big men to the front; it makes for stability of government, for continued progress, for the development of experience, for improved public service. This is essential to an effective budget procedure; it is essential to the successful operation of home rule. Whether charter changes were made to give

New York City home rule under a commission manager plan, or under a chief executive and council plan, the only way to make the citizenship trust the government is to give the government an effective means for meeting the opposition openly, and to have issues which affect the welfare of the city settled by a well-informed electorate when these issues are raised. An effective budget procedure is the most powerful instrument for the accomplishment of such a result. To make such a procedure effective it is necessary to make the executive responsible for planning, as well as for the execution of plans and to make the representative body responsible for giving full publicity both to past acts and future proposals, before further grants are made. Such a change can be effected by a very few simple amendments in the present charter.

HOW CAN NEW YORK CITY GET HOME RULE?

Twenty Suggestions Made Which Should Be Followed—Co-operative, Educational Campaign Necessary to Obtain Desired Result

By DR. WILLIAM H. ALLEN, Director, Institute for Public Service

NO one opposes Home Rule—in principle. Everyone believes in Home Rule—in principle. For years no one has opposed and everyone has favored Home Rule, yet we are not only still without Home Rule, but are adding new apron strings each year.

Home Rule has remained a between-campaign will-o'-the-wisp, primarily because cumulative,



DR. WILLIAM H. ALLEN.

definite, educational work such as the Record and Guide is now doing has not been done early enough and continuously enough. To urge further reasons for Home Rule is only to harangue a convinced jury. The question is no longer, Do we want it? but How much of it do we want? Why don't we get it? and How can we get it?

How Much Home Rule Do We Want?

Advocates of Home Rule differ among themselves as to the amount of Home Rule they want. Among real estate men there are many influential taxpayers who are more afraid of Home Rule than of Albany interference, so far as certain tax questions are concerned. Speaking generally, however, it is safe to say of believers in Home Rule that for public consumption the overwhelming majority want:

1—One hundred per cent. of Home Rule over strictly home affairs, including so-called county affairs.

2—One hundred per cent. of Home Rule also over those parts of State af-

fairs which the Legislature or the Constitution has asked the city to do for the State.

3—No more Home Rule for New York City than we will help Rochester and Buffalo get for themselves.

4—Completest possible Home Rule compatible with the State's final responsibility for protecting every citizen against incompetent government, "albeit," as Governor Hughes said when removing a borough president, "no evidence of corruption is shown."

5—Absolute freedom to determine the *how* and the *who* of getting home things done, subject only to the State's right to set up minimum standards of *what must be done* and *who may not, after proved incompetence, continue to do home work*.

Two more ends of Home Rule are added as in my opinion desirable, though not unanimously favored as yet.

a—For city and county work in Greater New York no salaries to be set, no titles to be fixed, no numbers of employees and no terms of office to be prescribed, no buildings to be compelled, and no mandatory pay-as-you-go bills to be passed, by the Legislature.

b—Existing mandatory laws to be repealed so far as the Legislature is concerned; that is, to be made the law of the people of Greater New York, binding upon the people of Greater New York, repealed by them alone.

Why Don't We Get Home Rule?

In five ways our previous efforts have been calculated to convert the potential oasis of Home Rule into a mirage.

1—Albany interference has been made a scapegoat for breakdowns and shortcomings in home control over home work.

2—Our present government has been "blinded."

3—A lone hand has been played by Greater New York.

4—Arguments for Home Rule have been too often indefinite, abstract, theoretical, or exaggerated and inconsistent.

5—Educational campaigns have begun too late, have been too "jumpy" and sporadic, and have reached too few people.

As Senator Brown has reiterated, Albany's much reproached interference has, with few exceptions, been at New York's request, with New York votes, and with our Mayors' signatures. No one has gone to Albany faster and oftener than believers in Home Rule. Personally, I doubt if we shall ever get Home Rule out of a cam-

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Why Don't We Get Home Rule?

In five ways our previous efforts have been calculated to convert the potential oasis of Home Rule into a mirage.

1—Albany interference has been made a scapegoat for breakdowns and shortcomings in home control over home work.

2—Our present government has been misled.

3—A lone hand has been played by Greater New York.

4—Arguments for Home Rule have been too often indefinite, abstract, theoretical, or exaggerated and inconsistent.

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paign directed chiefly against up-state interference.

Up-state did not throw away five hundred thousand odd dollars by failing to provide for the Public Service Commission in city-owned buildings.

Up-state did not write for us or lobby through the Board of Estimate the subway contracts in face of "let George do it" provisions for the city to pay bonuses and other "extras."

Some Things Not Promised.

Up-state did not demand two parole board sinecures or propose to give the Chamberlain new functions instead of extinction, or open a lunch-room for women employees when money was needed for safety, and when not a baker's dozen were willing to pay \$2 annual dues.

Up-state did not line up Greater New York forces against Home Rule, by pledging school commissioners to vote against one man and for another man for president of the home school board.

Up-state did not sign the scores of bills which Home Rule now seeks to repeal.

Up-state did not propose that sinking fund accumulations be applied as they have been applied—in spite of the good motive which prompted the law—for hiding budget increases from taxpayers by taking them out of capital instead of out of annual taxes.

Up-state did not write the midnight resignations which have "shot holes" in the execution of the most ambitious constructive program the nation has ever seen promised and begun. Nor did up-state inaugurate the policy of "turbosure eulogy" which has condoned delays and extravaganzas by local officers and other leaders of public discussion would not dream of defending if there were no Albany spectacle.

Government Incompletely Utilized.*

In testifying before the Brown legislative committee several of our present officers have declared that we have gone about as far as we can without Home Rule, have reached the limit under our present organization, have cut the budget to the bone, etc. Frankly, I feel that if New York taxpayers have not more sinners and more sense than to enforce such hyperbole, they are not entitled to Home Rule. Until such statements are challenged by outsiders and repudiated by insiders I do not believe we can bring about the team work necessary to secure Home Rule.

We cannot pull together if we talk our creed with crossed fingers.

Savings Promised.

In 1909 we were promised savings, not of a thousand, and not even of a few millions, not during the four-year period, but each year. Instead our budgets for operating city departments the next five years exceeded by \$35,000,000 the 1909 admittedly waste-swollen base—and this after excluding public school increases.

In 1913 we were promised savings again not of a few thousands, or even of a million, but, the present mayor said, "millions" a year, others said \$10,000,000 to \$25,000,000. Nor were those savings predicated upon obtaining Home Rule, although efforts to secure Home Rule were pledged. No candidate for mayor or comptroller in 1917 will for one minute admit that the relatively small

reductions effected are what either the people or the pledgers had in mind in 1913. And we all know that the made-in-Albany State tax shares credit for the 1915 reduction.

In the budgets under our absolute control only the surface of economy has been scratched. Go back to 1913 and 1909, think of what we all believed and were assured of at that time, and then think of what a paltry number of employees have been found unnecessary.

No one claims that nepotism and other favor have yet ceased to exist. Pledged to name employees entirely on merit, after a nation-wide advertising of search for ability, officers have filled exempt positions with which Albany had nothing to do, with persons some of whom were not known to possess ability, even reform organizations have exchanged the enviable position of frank analysts and interpreters for unenviable patronage and pose as "next of kin," "their apparent" and "the man behind."

Elected for Definite Purpose.

In December, 1913, an elective officer said: "We were elected not to do the work of any party, but to do the work of the whole citizenry. We were elected to give a business administration . . . without regard to politics, and that in so far as I have the ability and the power, I propose to do." In 1916, however, the spokesman for the officer says "Appointments [were] deliberately [in 1913] made to minor positions from nominees of political organizations [This elective officer] took the position that wherever he could name men to subordinate positions, where were acceptable to the political groups . . . he would do so, provided that they were reasonably competent. This theory is still regarded compatible with efficient government in New York." Have we really cut to the bone—yet?

Slaughter houses that for years have been subjects of scandal for selling diseased meat and debauching inspection service have within a few weeks been "warned" again. A private organization was paid \$2,000 a year to be ready to furnish our expert-saturated city with advice regarding public utilities. An employee collector of campaign funds from other city employees is lauded when tentatively appointed to one of the most important positions in the city.

Loyalty is a mockery which fails to discriminate between that which everyone should approve—to which the present city administration has notably contributed—and other work that the administration itself cannot help regretting and condemning. New York needs Home Rule to protect itself against itself more than it needs Home Rule for protection against Albany. Until we are ready to take that position frankly we shall find so many cross-currents and under-currents that we can make little headway.

Next Year's Campaign.

If you doubt this please picture the kind of campaign we are certain to have next year. To make the picture clear, imagine that we have pitted against another for comptroller or mayor two of those very same present officers

who have been telling Albany that we have exhausted the possibilities of our present organization and laws. Will such candidates, say further economies are impossible until we get Home Rule?

No, not even with regard to county and public service commission expenditures have we exhausted our present means of preventing waste. Granted that the Board of Estimate has been compelled to vote certain salaries or other expenses for county officers and public service commission, is that not all the more reason (a) for getting the facts about their preventable waste, (b) for using the city's extensive machinery for investigation, (c) for publishing facts which would enable public sentiment to operate, and if necessary, for getting the governors who have succeeded Governor Hughes to reinvoke the decision that no majority, no matter how large, has the right to force upon a minority, no matter how small a wasteful and inefficient government?

Finally, there are many unfulfilled campaign pledges of 1909 and 1913 which are proof that Home Rule is needed for other reasons than that we have reached the limit without it.

Lone Hand Has Been Pleased.

With an up-State Legislature to deal with, with Home Rulers claiming that legislators up-state and our own—do not understand Home Rule, and with most estimable citizens and organizations flooding the same legislators with appeals for special legislation affecting New York, we cannot successfully "go it alone."

To succeed, must we not, for the time being, sincerely concern ourselves with Home Rule for Rochester, Buffalo, Schenectady, etc., and the counties of New York State? If we help them we are entitled to ask their help in return.

There is really nothing very difficult about our reasons for wanting Home Rule. There is nothing about Home Rule that requires a college degree, or legal training, to understand. It will make it easier to do what we want. It will make it harder for us to tie our own hands. It will make it harder for our officers to shift responsibility from themselves to Albany. It will discourage secret special pleading and make it more difficult for a small fraction of the community to "put over" something that affects the whole of the community.

Exaggerated arguments will only stand in our way. Frankly, I feel that the anxiety of many is exaggerated, which in current discussions it is estimated will be saved by Home Rule.

Home Rule is quite as apt, certainly at the beginning, to increase as to decrease gross and net expenditures. But to my mind that is no reason for depriving ourselves of freedom to act. The right to save money is no more important than the right to make mistakes. If we make mistakes under Home Rule we shall learn the lessons and not shift the blame to Albany.

Typical of inconsistencies is the fact that many advocates of Home Rule want the Legislature to repeal existing mandatory provisions rather than let it to the people of this city to repeal them.

Educational Campaigns "Jumpy."

In 1913, both Fusion and Democratic platforms pledged candidates to Home Rule. Those who came into power were pledged to work for a Home Rule charter. The chairman of the char-

ter committee has resigned. Such steps are apparent for pushing the Home Rule program began with the Brown Committee, not with our city officers. The Legislature has finished its second month. Little concerted effort is apparent now to enlist other cities in this Home Rule campaign or to start the necessary constitutional amendment for supplementing and making permanent remedial legislative acts hoped for.

If we fail to secure Home Rule from the present Legislature the time to begin the work upon the next Legislature is the day this Legislature refuses to act. It will be too late to put it off until after the platforms of the various parties and the gubernatorial election, and the fall elections for assemblies. It will be too late next winter, after the next legislature. Unless the business interests of New York City are prepared to spend some money in cumulatively prosecuting this campaign for Home Rule from the very first public program must be prosecuted, there is little chance of securing remedial legislation.

How Can We Get Home Rule?

In making the following suggestions, I am assuming that there is a co-operative educational program which will bring about Home Rule legislation this winter. I suggest twenty steps for consideration by readers of the Record and Guide:

1—Agree to work for Home Rule so far as the Constitution will permit, for up-state cities as well as for Greater New York.

2—Call a conference for some day in the week beginning March 27, of mayors, chamber of commerce members, and presidents of school boards, preferably, Albany itself, to consider ways of securing immediate legislation.

3—Stop basing New York's request for Home Rule upon the alleged perfection, or near perfection, of our present city government.

4—Claim Home Rule as a necessity for protecting every city against its own officers and own factions rather than against Albany.

5—Stop exaggerating the economies that will result from Home Rule.

6—Insist that we ought to have Home Rule even if sure that mistakes would be made and expenses at first increased.

7—Ban our appeal upon the community's right to freedom.

8—Instead of asking the Legislature to repeal the mandatory laws, ask the Legislature to make mandatory laws part of local charters to remain in force until by referendum the people decide to repeal those laws; in other words, work for Home Rule by the people of Greater New York rather than Home Rule by elected officers.

9—Extend the governor's power of recall of any elective officer upon proof of incompetence, which means, give to the minority the power to initiate administrative recall based on evidence.

10—Provide for recall by the voters within a city, thus recognizing that our present recall, once in four years, is not enough to protect either the minority or the majority.

11—Provide for uniform reports of all local activities to State supervising boards.

12—Leave the present limitation upon power to raise taxes, but supplement it with permission to raise taxes above that limit upon referendum.

13—Substitute a single primary for primaries for city officers.

14—Exact the pay-as-you-go policy for all cities, subject only to local referendum on specific proposals.

15—Conduct a propaganda of definite information to affect all classes of people and all sections of the State.

16—"Smoke out" the forces opposed to Home Rule and secure a frank discussion of reasons.

17—Bring together the taxpaying interests and other organized agencies of the city in a general Home Rule committee, with an executive committee selected from men not already overburdened with work.

Other Necessary Things.

18—Eliminate present discussion of such questions as whether when we have Home Rule we shall abolish or continue the board of aldermen; abolish or continue the chamberlainship; have an educational board of seven or forty-six. Stand simply for the proposition that New York has the right to fit its policies to its needs as only Home Rule can do.

19—Urge that the law giving Home Rule shall require a charter convention to be held within six months.

20—Work to secure the necessary constitutional amendments which will prevent the Legislature at future sessions from taking back powers granted to cities this session.

PARTIAL HOME RULE NEEDED BY CITY

Many of Existing Errors Could Be Righted Under Present Form of Government—Must Agree Among Ourselves Before Albany Will Act

By HON. CYRUS C. MILLER

ONE of the peculiarities of certain schools of political philosophers is that when they wish to escape from the results of past errors they jump to the conclusion that if they had something new—although untried—it would be better than to try to improve old methods to which the people had become accustomed. It needs no argument to prove that the city has suffered in the past from mandatory legislation, but I doubt

it must not be forgotten that the City of New York is a governmental agency of the State of New York, and that so long as this is so, complete home rule is out of the question. Indeed, independence of the city from the rest of the State would be a misfortune for the city, while New York City is the great financial and commercial center of the east coast of the country, its interests must be protected in Congress and with foreign countries, and this may be done only through the State.

While our ears are resounding with the cries of "Home Rule," it might pay us to stop and think that in most of the functions which this city performs for its internal government, we have home rule. That present methods might be improved, and can be improved, there is no doubt, but to do this it is not necessary to arouse the opposition of the rest of the State or of the residents of the City who see the futility of complete home rule.

Article XII of the State Constitution provides that special laws relating to any city shall be referred to the mayor of the city for his approval or disapproval within fifteen days. Upon his disapproval or failure to disapprove within fifteen days, the bill may be passed by both houses of the Legislature. There is a considerable list of these special laws, and many of the laws over which we now groan were approved by our mayors and would be repealed if the city demanded it.

It would be wiser if the advocates of greater freedom in the conduct of the city's affairs were to define exactly what measure of increased self-government would be necessary to better conditions, rather than to content themselves with the catch words "Home Rule."

Perhaps, after all, the question is one of degree and not of kind, and perhaps advocates and opponents of home rule will find upon comparing their views that they are not so far apart. For example, I do not understand that the most ardent home ruler favors full power in the city to incur bonded indebtedness and to fix taxation, while they who oppose home rule because they think its limits to be too broad will agree that budget making and salary fixing and other administrative acts should be lodged in the city alone.

Many of the same men who are as anxious for home rule for the city are opposed to home rule in the boroughs—thereby creating a centralized government far from the scene of purely local functions, and resulting in practically the same evils they claim ensue to the city from control from Albany. Why the laying out, regulating, grading and paving of streets and the construction of sewers, water systems and docks, the maintenance of parks and other purely local acts should be performed by a centralized government and not by local borough officials directly responsible to the people of the locality is difficult to see. On the other hand, such general



HON. CYRUS C. MILLER.

that the present day burdens from this source are any greater than those which may be traced directly to our own stupidity and lack of foresight. Nor does it need any argument to prove that many of our purely administrative acts, such as making and adopting a budget, and fixing the salaries and other expenses therein, should be within the power of the city, without the absurdity of having such items fixed at Albany for certain groups of city employees.

The fact will develop after a very cursory examination of the question that the advocates of home rule do not desire home rule at all. They will admit at once that they do not wish home rule in matters of civil service, education, taxation, indebtedness, contracts, decedent estates, insurance, excise, health laws and many other things in which the interests of the city are so intertwined with the interests of the State and the Nation that to separate them would be impossible. What they want is "More Home Rule" and not "Home Rule." The term home rule does not express what is wanted, and only raises unnecessary opposition.

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16—"Smoke out" the forces opposed to Home Rule and secure a frank discussion of reasons.

17—Bring together the taxpaying interests and other organized agencies of the city in a general Home Rule committee, with an executive committee selected from men not already overburdened with work.

Other Necessary Things.

18—Eliminate present discussion of such questions as whether when we have Home Rule we shall abolish or continue the board of aldermen; abolish or continue the chamberlainship; have an educational board of seven or forty-six. Stand simply for the proposition that New York has the right to fit its policies to its needs as only Home Rule can do.

19—Urge that the law giving Home Rule shall require a charter convention to be held within six months.

20—Work to secure the necessary constitutional amendments which will prevent the Legislature at future sessions from taking back powers granted to cities this session.

PARTIAL HOME RULE NEEDED BY CITY

Many of Existing Errors Could be Righted Under Present Form of Government—Must Agree Among Ourselves Before Albany Will Act

By HON. CYRUS C. MILLER

ONE of the peculiarities of certain schools of political philosophers is that when they wish to escape from the results of past errors they jump to the conclusion that if they had something new—although untried—it would be better than to try to improve old methods to which the people had become accustomed. It needs no argument to prove that the city has suffered in the past from mandatory legislation, but I doubt

it must not be forgotten that the City of New York is a government of the State of New York, and that so long as this is so, complete home rule is out of the question. Indeed, independence of the city from the rest of the State would be a misfortune for the city, while New York City is the great financial and commercial center of the country, its interests must be protected in Congress and with foreign countries, and this may be done only through the State.

While our ears are resounding with the cries of "Home Rule," it might pay us to stop and think that in most of the functions which this city performs for its internal government, we have home rule. That present methods might be improved, and can be improved, there is no doubt, but to do this it is not necessary to arouse the opposition of the rest of the State or of the residents of the City who see the futility of complete home rule.

Article XII of the State Constitution provides that special laws relating to any city shall be referred to the mayor of the city for his approval or disapproval within fifteen days. Upon his disapproval or failure to disapprove within fifteen days, the bill may be passed by both houses of the Legislature. There is a considerable list of these special laws, and many of the laws over which we now groan were approved by our mayors and would be repealed if the city demanded it.

It would be wiser if the advocates of greater freedom in the conduct of the city's affairs were to define exactly what measure of increased self-government would be necessary to better conditions, rather than to content themselves with the catch words "Home Rule."

Perhaps, after all, the question is one of degree and not of kind, and perhaps the advocates and opponents of home rule will find upon comparing their views that they are not so far apart. For example, I do not understand that the most ardent home ruler favors full power in the city to incur bonded indebtedness and to fix taxation, while they who oppose home rule because they think its limits to be too broad will agree that budget making and salary fixing and other administrative acts should be lodged in the city alone.

Many of the same men who are as anxious for home rule for the city are opposed to home rule in the boroughs—thereby creating a centralized government far from the scene of purely local functions, and resulting in practically the same evils they claim ensue to the city from control from Albany. Why the laying out, regulating, grading and paving of streets and the construction of sewers, water systems and docks, the maintenance of parks and other purely local acts should be performed by a centralized government and not by local borough officials directly responsible to the people of the locality is difficult to see. On the other hand, such general



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that the present day burdens from this source are any greater than those which may be traced directly to our own stupidity and lack of foresight. Nor does it need any argument to prove that many of our purely administrative acts, such as making and adopting a budget, and fixing the salaries and other expenses therein, should be within the power of the city, without the absurdity of having such items fixed at Albany for certain groups of city employees.

The fact will develop after a very cursory examination of the question that the advocates of home rule do not desire home rule at all. They will admit at once that they do not wish home rule in matters of civil service, education, taxation, indebtedness, contracts, decedent estates, insurance, excise, health laws and many other things in which the interests of the city are so intertwined with the interests of the State and the Nation that to separate them would be impossible. What they want is "More Home Rule" and not "Home Rule." The term home rule does not express what is wanted, and only raises unnecessary opposition.

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It is fashionable to lay to "Up-State Domination" about all the ills we suffer, but it is clear that rarely has any act affecting the city been adopted without the concurrence of the legislators from the city, and the approval of the mayor. When to this is added the fact that most of our citizens are indifferent to public affairs and interest themselves in legislation only when it affects them directly, we can see that home rule or any other rule in itself is not sufficient for good government. The machinery we have now is good enough if it is operated intelligently.

We have observed a remarkable growth in this city during the past ten years of what are called "Social Workers," whose work consists in what they deem social betterment. The world progresses, and some of this work has been necessary and helpful, but there is a tendency among all human beings who spend the money of others, especially when they themselves are the recipients of that money, by way of salaries, to overdo it. This, in conjunction with the increase in the number of our voting population, who agree with the social workers that something for nothing is desirable, tends to raise a suspicion in the minds of conservatives, that "home rule" without the restraining vote of the up-State farmer may not be so desirable after all. The past has shown the pressure which has been brought to bear upon city officials by the social workers and other well intentioned people, who have not realized the fact that all things no matter how desirable, must be paid for. There may be times when the veto power of a Governor of the State will be a very valuable check on the legislation of a city. All through our government runs the idea of checks and balances upon legislation affecting the lives

and property of our citizens, by others who are not responsible for the legislation.

Notwithstanding a well defined belief in the mind of the public to the contrary, I think the days of graft in public office, to any large amount, are gone. Waste there still is, but the questions of government of the city in the future in my opinion will arise over which of two or more fairly good methods shall prevail, and not over graft. Differences of opinion will arise over the best method of doing anything, but that only leads to healthy discussion.

As the legislature may not delegate legislative powers, it may not give us the power to make our own charter, without an amendment of the State Constitution; but is it necessary that we make our charter free of the legislature? If we can agree among ourselves upon the form of charter we wish, there is every probability that the Legislature will pass it.

A charter, like a constitution, should be an instrument for the guidance of the majority and the protection of the minority. The city is in a constant state of evolution. From time to time, changes in the charter will be necessary to meet new conditions. These should be made slowly, with due regard to the fact that what has been worked out on the anvil of time and experience should not be cast aside lightly. I should suggest the formation of a permanent Charter Commission on the lines of the Municipal Art Commission, to which all questions of changes in the charter could be referred for examination and report. I have no doubt that there are many capable citizens who would volunteer to serve on such a commission. If the rule could be adopted that legislation to amend the charter must be submitted first to the Charter Commission, it would do away with the hit-or-miss methods of the present.

MUNICIPAL HOME RULE, WHY IT IS NEEDED, AND HOW IT MAY BE OBTAINED

By LAURENCE ARNOLD TANZER

UNDER present political conditions in this State, a demand for home rule proceeding from New York City alone would encounter so much local and partisan jealousy and selfishness as probably to insure its defeat. Fortunately, the demand comes not from New York City alone, but from practically every city in the State. What might be denied to New York is likely to be granted in the near future on the

drawn by a city convention, composed of residents of the city, and was adopted by the voters of the city. The Charter of 1849 was likewise approved by the voters of the city. It was not until the time of the notorious "Twisted Ring," that the process of whittling down local powers got fairly under way—a process which has finally brought the cities of the State into a condition of abject subjection to the will of the majority for the time being in control of the State Legislature.

This condition is one of the consequences of the corrupt partisanship that has long been allowed to play havoc with the government of the State. It enables the party which can elect a majority of the Legislature, not only to appropriate the "spoils" of the State offices, but to extend its control over all city governments throughout the State. Machine politicians are naturally loth to abandon so rich a field. But the people are awakening to the necessity of having their government administered on business principles; and this can be done in the cities only by transferring the control of the local governments from the State Legislature to the people of the localities or their chosen representatives.

Legislative Domination.

The extent of legislative domination over local affairs is not generally realized. In the period of eighteen years from 1895 to 1912, of all the laws passed by the Legislature, approximately forty per cent. were special and local laws affecting particular cities, towns, villages and counties. During the six years from 1910 to 1915, there were introduced in the Legislature 2,776 special city bills, that is, bills relating to the property, government or affairs of one or more cities less than all the cities of a class—an average of 462 such bills each year. In the period of fifteen years commencing in 1897, the year of the enactment of the Greater New York Charter, the Legislature passed 918 separate and special acts directly affecting the property, government or rights of the City of New York—an average of 54 a year—outside of and in addition to the large number of acts directly amending the Greater New York Charter.

These local laws on which the Legislature has been spending its time, regulate the local affairs of cities down to the minutest detail. Among the bills passed at a single session of the Legislature were laws adding to the New York Fire Department veterinarians with rank and salaries the same as deputy chiefs; abolishing the grade of doorman in the New York Police Department; authorizing the New York Board of Estimate to inquire into and pay the claims of John P. Worsell and Joseph P. McNamara for work, labor and services; increasing from 10,000 to 40,000 square feet the space in the New York Hall of Records to be allotted to the Register and Commissioner of Records; providing for an assistant counsel to the Sheriff of New York County at a salary of \$3,000; increasing the amount of sewer construction bonds which might be issued by Binghamton from \$125,000 to \$135,000 and the amount which



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Some speak of municipal home rule as if it were a novel and dangerous proposal. In fact it is neither novel nor dangerous.

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Home rule is nothing more nor less than the right of local self-government with respect to purely local affairs. That right is an old and well-recognized political principle; a right that has come into disuse only in recent times. It was guaranteed by Magna Charta, and has always been part of the fundamental law of this State. It was enjoyed for generations by the City of New York. The city's rights still rest to-day, in part, on royal charters antedating the first constitution of the State. The New York City Charter of 1830 was

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may be issued in any one year from \$25,000 to \$35,000; changing the title of sergeants of police in Buffalo to lieutenants of police, changing the salary of superintendents of horses in the police department, etc.; authorizing payment of the amount due the Gratta Construction Co. for constructing a certain sewer in an alley in Cohoes; authorizing Fulton to borrow \$3,556.69 to pay school teachers; authorizing the Board of Education of Lockport to reconstruct the Union Street building; authorizing the corporation counsel of Mount Vernon to appoint an assistant corporation counsel; authorizing the city council of Newburgh to spend \$5,000 to entertain delegates to the conventions of the State Firemen's Association and of the Grand Army of the Republic; raising the maximum salary of the deputy city clerk of Newburgh from \$540 to \$840.

Hindrance to Good Government.

It seems too plain for argument that no city can be well governed which must look for the regulation of local matters of this kind to a Legislature composed of two hundred men chosen to legislate for the entire State, most of them coming from districts remote from the localities affected. Municipal policies so determined are shaped, not according to the needs of the city, but according to the exigencies of party politics in the Legislature, depending often on the introducer's subservience to the will of the party boss on important matters of State policy. The city's needs become one of the minor stakes in the game of party politics.

The direct results of this system are city government unbusinesslike and inefficient, because its policies are not determined by the requirements of the city, nor by the wishes of its inhabitants; city legislation enacted by legislators unfamiliar with local conditions, and, therefore, arbitrarily and often unjustly; patchwork legislation, hasty and ill-considered, because passed in great volume from among an enormous number of proposals of all kinds and relating to every locality in the State; city charters, inelastic and unresponsive to changing conditions because amendable only by legislative act, the obtaining of which is often difficult and always doubtful.

The indirect effect, both on the city and on the State, are even more serious. The dependence of the city on the Legislature, the powerlessness of its inhabitants over their own affairs, tends to bring about a lack of interest in public affairs and so to deprive both the city and the State of the stimulus of an active and alert public spirit.

City Preyed Upon.

Government by city officials elected by the people of the city, but controlled by the Legislature is responsive and responsible neither to the one

nor to the other. The city becomes the prey of scheming politicians, who learn to manipulate the complicated interlocking machinery of State and municipal government. The difficulty of obtaining needed legislation prevents or at least delays and makes unduly difficult substantial reforms and so discourages constructive effort. Of 1,176 special city laws passed by both houses of the Legislature and accepted by the city authorities between 1910 and 1915, 201, or seventeen per cent. were vetoed; no statistics are available of the necessary bills introduced and not passed, or not even introduced because of the anticipated difficulty of procuring their enactment. Much of the time of city officials, which should be devoted to running the city government, must be wasted in lobbying at Albany, not only to procure necessary legislation, but to watch and defeat undesirable legislation. Of the total number of special city bills introduced during the period last mentioned, forty-nine per cent. failed of enactment and of those passed seventeen per cent. were rejected by the cities.

The effect on the State government is equally detrimental. The large mass of local legislation introduced distracts the attention of the legislators from their primary duty of considering important State legislation. The legislator, who ought to be studying bills dealing with workmen's compensation, or the insurance or banking business, or the registration of titles, or the administration of the criminal law, is largely busy with getting votes for or against a measure for the paving of a street in his city, the creation of a local job or changing a local salary. He is compelled to resort to log-rolling, trading votes for one bill against votes for another. Thus, neither the interests of the State nor the interests of the city receive proper consideration.

In sum, legislative control of municipal affairs means the throwing of municipal affairs into State politics and renders it impossible to obtain in full measure honest and businesslike city government.

Remedy for Evils.

The remedy for these evils can be found only in restoring to cities the power to manage their own local affairs and in prohibiting special legislation dealing with purely municipal concerns. This can be done only by constitutional provision, because the Legislature has no authority or power to pass such special local legislation, the same influences—often coming from within the localities themselves—which have operated in the past, will continue to work in the future and any grant of power proceeding from the Legislature itself will be in constant danger of impairment by special legislation. The only way to free the Legislature, as well as the cities, from the incubus of this kind of legislation is by constitutional prohibition forbidding it altogether.

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PART TWO.

A HOME rule constitutional provision should contain these two essential elements: A grant of power to cities over their local municipal affairs and a prohibition against special legislation which would interfere with the exercise of that power. The one supplements the other.

The grant of cities of the power of local self-government does not involve, as is supposed by some, the setting up of the city as a community independent of the sovereignty of the State or having powers in derogation of the legislative authority of the State Legislature. Cities would still continue subject to legislative authority in the exercise of the powers granted, as in all other respects. Private business corporations are not made exempt from regulation by the Legislature because they are organized under charters authorized by general law empowering their stockholders and directors freely to manage their internal affairs. They must all, none the less, obey the laws of the State provided for their regulation.

Regulation of Banks.

The regulation of banks and insurance companies, for instance, is recognized as of great public importance; yet the Legislature would not think of passing a law providing what should be done with regard to the business of any particular bank or insurance company, but protects the public interest by enacting general rules of conduct for all banks or for all insurance companies, leaving those in charge of each company to conduct its transactions as they may deem wise, subject to observance of those general rules. No one supposes that banks or insurance companies are thereby made independent of law or of the sovereignty of the State. In like manner, the constitutional grant to cities of the power of local self-government, coupled with a prohibition of special legislation regulating the internal affairs of particular cities, would leave local legislatures with plenary power to enact all such laws for the government of cities as might from time to time seem desirable, regulating city governments in relation to municipal affairs as well as in their relation to the State; and all cities in exercising the power granted them over their own affairs would continue to be subject, as are all private corporations and all citizens generally, to the power of the Legislature to pass State laws. Cities would be subject, for example, to State law prescribing uniform systems of municipal accounting, placing limits on municipal indebtedness and the like, as well as to all laws applicable to the State as a whole. The fear that the grant of the power of local self-government would in some way be in derogation of the sovereignty of the State is a mere bugaboo.

The form which the grant of power shall take presents some difficulties. Three different ways of conferring the power have been proposed. The first way is by enumeration of specified subjects which cities may regulate for themselves to the

exclusion of the legislature; the second by a grant in general terms of the power of regulating local municipal affairs; and the third by a mere declaration of the principle of local self-government, leaving the extent of the power and the manner of its exercise to be prescribed by the Legislature.

The first of these methods—that of enumerating specified subjects over which cities are to have exclusive power, is impracticable, because the same subjects of legislation interest both the city and the State and should be given exclusively to neither. Take, for example, the subject of public health. The State must retain power to pass general laws on this subject applicable to all cities and directing the activities of local health authorities in relation thereto, while each city should have power to adopt additional local regulations dealing with its own local problems and the organization and government of its local health department. As it is with health, so with most other subjects of importance: Cities should be empowered to deal with them in their purely local aspects, leaving in the Legislature power to pass State laws on the general subject. Any attempt, therefore, to set apart subjects of legislation to be dealt with exclusively by cities would, if the subject matter be broad, unduly diminish the powers of the State Legislature, or if narrow, grant inadequate powers to cities. This method of enumeration would, in the first case, be dangerous, and in the second case it would be futile.

Second Method Better.

The second method, that of granting to cities power, subject to the general laws of the State, to regulate their own affairs and adopt their own charters, is preferable. It is the method which has been adopted in the constitutions of twelve States of the Union—Arizona, California, Colorado, Michigan, Minnesota, Missouri, Nebraska, Ohio, Oklahoma, Oregon, Texas and Washington—that is, in all the constitutions having any home rule provisions at all. The principal objection urged against this method, that it would require judicial decisions to determine the extent of the power of local self-government and to draw the line between local municipal affairs and State affairs, is not so serious as those who raise it would have us believe. Constitutional grants of power are almost universally and of necessity couched in general terms; and recourse must be had to the courts to apply them. But the litigation which would be necessary to interpret and apply a constitutional grant of home rule power to cities would present no greater difficulties than constantly arise today in the numerous litigation involving the validity of local ordinances and conflicts between such ordinances and State laws; and it would have this great advantage, that a judicial determination as to the extent of municipal power would settle the point involved for all cities of the State instead of binding only the particular city where the case arose.

The third method, of merely declaring the

principle, leaving its application and definition to the Legislature, leaves fewer questions to be determined by the courts, but, on the other hand, makes the cities dependent on legislative action to make effective the grant of power. This disadvantage tends to disappear if there is an adequate prohibition against special legislation dealing with local municipal affairs.

Evils of Special Legislation.

In fact, from the practical standpoint a prohibition of such special legislation is of greater importance than the precise form of the grant of power. As has been pointed out, legislative domination of municipal affairs has been operative for evil in this State, mainly through the practice of passing such special legislation. If the power and the temptation to pass these special laws are removed, the evil will tend to correct itself. In addition to the general laws governing all cities, which the Legislature should give its own special power to enact, each city needs its own special legislation to meet its own peculiar local conditions. If the Legislature is deprived of the power of itself adopting this legislation, it will be forced by the practical exigencies of the situation to confer that power on the cities. In view of this, it becomes less important whether the grant of power be in the form of a direct self executing grant of power to the cities of the State or whether it be in the form of a mandate to the Legislature to pass legislation granting such power to cities, provided only the Legislature is deprived of the power to interfere in local affairs by special act.

It is this point of view which underlies the latest proposal for a home rule constitutional amendment, introduced in the Legislature by Senator Mills and Assemblyman Welch. This proposal is in the nature of a compromise between the advocates of a sweeping constitutional grant to cities of home rule powers on the one hand, and those, on the other hand, who fear lest the power of the State Legislature suffer through an unduly large grant of power to cities. The proposal has been introduced at the instance of the Mayors' Conference and has been endorsed as an acceptable compromise by the Municipal Government Association of New York State, by the Citizens Union and by the City Club and other home rule advocates.

The Mills-Welsh proposal confers home rule powers in the form of what may be called legislative home rule rather than constitutional home rule—that is to say, it adopts the third of the three methods discussed above. It avoids the necessity of judicial determination of the extent of the power granted to cities by commanding the Legislature to provide by a general law for the carrying out of its provisions. It indicates in a general way the character of the legislation which the Legislature is required to enact, but leaves the details to the Legislature. The Legislature is required to enact legislation giving to every city, first, power to adopt and amend local laws, not inconsistent with the constitution and laws of the State, relating to the powers, duties, qualifications, number, mode of selection and removal, terms of office and compensation of all officers and employees whose compensation is paid directly or indirectly out of the city treasury, other than justices of courts of record, the transaction of its business, the incurring of its obligations, the pres-

entation, ascertainment and discharge of claims against it, the acquisition, care, management and use of its streets and property, the wages or salaries, the hours of work or labor, and the protection, welfare and safety of persons employed by any contractor or sub-contractor performing work, labor or services for it, and the government and regulation of the conduct of its inhabitants and the protection of their property, safety, health, comfort and general welfare; second, power to draft, adopt and amend its own charter, but no new charter is to become effective in any city until it shall have been approved by vote of a majority of the electors of the city. In the third place, the Legislature is commanded to provide by general law for the conditions under which and the method by which villages or the inhabitants of unincorporated territory may incorporate as cities and the manner in which territory may be annexed to or separated from cities.

The powers which the Legislature is thus required to grant are protected against legislative interference by a provision prohibiting the Legislature from passing any law relating to the property, affairs or government of cities which shall be special or local either in its terms or in its effect, the requirement being that the Legislature shall act in relation to such local municipal affairs only by general laws which shall in terms and in effect apply alike to all cities. With respect to matters other than the property, affairs or government of cities, the Legislature retains full power to legislate by laws general or special; but any such law affecting cities, which does not in terms and in effect apply alike to all cities, must be submitted to the city authorities for approval in the same manner in which special city bills are now so submitted, and if disapproved by the local authorities of any city affected, must be repassed by the Legislature before it can become law.

The sovereignty of the State and the power of the State Legislature are fully safeguarded by an express declaration that the power of the Legislature to enact laws relating to matters other than the property, affairs or government of cities shall not be deemed to be restricted in any way; and even so far as cities are concerned, the power is restricted only to the extent of requiring general legislation where purely municipal affairs are in question and if other matters affecting cities are involved, by making the legislation, if not general in application, subject to the suspensive veto by the local authorities. The Legislature thus retains the fullest freedom to deal (1) with city affairs by general laws; (2) with matters of State concern relating to cities (a) by general laws or (b) by special laws subject to the suspensive veto; and (3) with affairs of State concern generally by any form of law, general or special. In addition, the Legislature is expressly granted power to confer on cities, by general laws, such further powers of local legislation and administration as it may from time to time deem expedient. This provision can be used in the discretion of the Legislature, not only to further extend the powers of cities, but also to extend the use of city officials as agents of the State, by delegating to them powers and duties in the execution of State laws.

Not only is the Legislature left full power of legislation, as above indicated, but it is commanded to pass general laws to guard against abuses in assessments and in contracting debt by municipal corporations, and it retains power to regulate, by general laws, labor conditions, including salaries and hours of labor in cities as well as in all other divisions of the State.

The counties within the City of New York are to be treated as a part of the city government, so that the power of local self-government conferred on the City of New York is to extend over the counties within its boundaries. The separation of municipal from State elections, which now applies only to cities of the first and second classes, is to be extended to all cities.

This proposal, if adopted, will, in effect, provide for the grant to the seven million people in the cities of this State of power to govern themselves, leaving the details of the exercise

of the power for the Legislature to determine. It will free cities from much legislative interference and will free the Legislature from bondage to local affairs, enabling it to fulfill its proper function of legislating for the entire State. It will preserve unimpaired the proper powers and functions of the State Legislature, retaining in it full power of control over cities and enlarging its power to use cities as instrumentalities to serve the State. It will do this without in any way interfering with existing charters or other laws, all of which are by express provision to continue in force until repealed, amended, modified or superseded in accordance with the provisions of the constitution.

The Mills-Welsh proposal affords a sane, safe and practical means of a gradual transition from the legislative government of cities to local self-government in municipal affairs. Its adoption will be of great benefit both to the cities and to the State.

HOME RULE NECESSARY TO NEW YORK CITY

Municipality Should Manage Its Own Affairs
—Mandatory Legislation Should Be Curbed.

By SENATOR ROBERT F. WAGNER

ROBERT F. WAGNER, representing the 16th Senatorial District of the City of New York, has advocated Home Rule measures for the Metropolis and all other municipalities. Progressive thought throughout the country has brought with it many reforms, such as direct primaries, social welfare legislation and the revival of the theory of Home Rule. Senator Wagner has made sincere efforts during the present session of the Legislature to put some of the Home Rule ideas into effect and if he has not succeeded he has at least kept this question in the foreground and assisted in shaping some of the laws which the Legislature in its closing days has enacted for the benefit of the city.

During the sessions of the Constitutional Convention held last summer he addressed the members of that body on Home Rule legislation and stated his belief:

1. That the city is capable of self-government;
2. That city conditions require self-government;
3. That cities would progress more rapidly with self-government.

The majority of the members of both houses in the Legislature represent districts above the Harlem River, and Senators and Assemblymen from Rochester, Buffalo, Syracuse and Utica join with rural lawyers in preventing genuine Home Rule amendment to be incorporated in the State Constitution. "What right has the majority of the Legislature coming from rural districts to impose upon the City of New York the laws which they deem proper for it?" Senator Wagner remarked in his debate on Home Rule. "Distinct from the rest of the State," he continued, "the City of New York stands alone with its peculiar interests. We, of New York City, are essentially a financial and commercial community in distinction to the agricultural and industrial communities of the State at large. The interests of our city, its defects, its tendencies, its advantages and its disadvantages are primarily local and peculiar to itself. To satisfy those interests, to cure those defects, to encourage those tendencies, to co-operate with those advantages, and to eliminate those disadvantages are among the duties of its citizens, and we, whose interests are identical with the interests of our city and whose livelihood and existence depends upon our municipality, know just what are our requirements and how those requirements may be supplied. The government of the city should be conducted from the City Hall and not from Albany."



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city in the administration of its own affairs—for instance, increasing salaries. The second class of legislation from which New York suffers is the discriminatory legislation such as provides that the expenses of the Public Service Commission of the First District be paid out of the city treasury, while the Public Service Commission of the Second Department, also a State department, is paid out of the State treasury. Thus it is clear that New York City is compelled to pay the entire expense of the Commission of the First District, amounting to about \$3,000,000, and also 70 per cent. of the cost of the second district commission.

Also the State Department of Health has jurisdiction over the entire State, except the City of New York, and we in New York City must have our own Health Department at our own expense and also contribute 70 per cent. of the expense of the administration of the Health Department for the remainder of the State. We are compelled to support our own normal schools within the City of New York, while the expense of maintaining the normal schools in the rest of the State is paid out of the State treasury; so here again, while we pay for the administration of our own normal schools, we are also paying 70 per cent. of the expense of the normal schools of the rest of the State. We are compelled to pay 70 per cent. of an annual \$2,000,000 appropriation to maintain town roads, although New York City is specifically excluded from enjoying one dollar of this money. We are

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paying \$75,000,000 of the \$100,000,000 expended for the comprehensive system of highways throughout the State, but New York City is excluded from the enjoyment of any of these moneys. There are a number of other like instances to which I could refer, but these are sufficient to illustrate my point.

One Reason for Tax Burden.

Thirdly, New York City has its burden of taxation increased because of the large number of so-called local appropriation bills that are enacted each year—appropriations which are given to the rural legislators purely in the nature of patronage. For instance, to improve a creek, dredge an inland lake, change the course of streams for the sake of improving property. New York City has never been known to receive any local appropriation of that character for its own use or benefit. These appropriations amount in some years to several millions and one can see the injustice to New York at a moment's reflection, for we must pay 70 per cent. of all these local appropriations.

Then take the case of bridges: The State of New York expended several hundred thousand dollars last year to provide bridges between Rensselaer and Albany Counties and Rensselaer and Saratoga Counties, the State paying the entire cost of the construction of these bridges, while in the City of New York the taxpayers of that city, without one dollar of assistance from the State, have been obliged to spend millions to connect the County of New York with the Counties of Kings and Queens.

The question is: What is the remedy? In my judgment, there are two remedies:

1. To prevent in the future the imposition of mandatory expenses upon the city in the administration of its local affairs, the constitution of the State should be so amended as to give to the municipalities of the State absolute home rule; that is, the right guaranteed to them by our fundamental law, without State interference, to manage their own affairs, property and government.

2. A never-ending protest, backed by an aroused public sentiment within the City of New York, which will compel the enactment of a constitutional amendment guaranteeing to the city fair and equal representation in

the Legislature according to its population.

The two remedies are interdependent, for when New York City has the representation to which it is justly entitled it will be political suicide for any Legislature to attempt to interfere with its local affairs. It is obvious that these purposes must be accomplished before New York City can create for itself a municipal situation which will insure honesty, efficiency and wisdom in the management of its local affairs. Until the citizens of New York City can elect its own officials pledged to carry out policies which are approved by the people themselves, it will never be assured of obtaining the result in city government that its citizens desire and certainly ought to have.

Not Real Home Rule.

The constitutional amendment which Senator Brown, following out the recommendations of the joint committee of the Legislature appointed to investigate the financial condition of the City of New York, proposed in the Senate on March 6, 1916, falls far short of satisfying the public demand for home rule. It is only half a remedy for our municipal needs. The amendment contains no guarantee that home rule shall be given to the cities except when and to what extent the Legislature may deem expedient. A genuine home rule provision should not merely delegate to the Legislature the right to empower cities to conduct their local government, as Senator Brown's amendment does; it should by its own terms vest in the cities the right to manage their own municipal affairs. The exponents of home rule have insisted, and continue to insist, that local government be vested in the localities absolutely and that in order to work out their municipal destinies cities should not be compelled to seek powers from the Legislature, but should have those powers assured to them by the fundamental law of the State. I have introduced a proposed amendment to the constitution which embodies my views or rather the views of those who want genuine home rule. The amendment which I introduced does not merely delegate authority to the Legislature to confer home rule upon cities, but actually vests in the cities the greatest possible measure of home rule independent of legislative action.

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City Blames State for Existing Evils, Programs are Formulated, But Debts Increase

By HON. WILLIAM M. BENNETT

Many years ago a Governor, elected from up the State, complained in one of his messages that the up-State counties were being taxed to build the Erie Canal for the up-building of the City of New York. Of recent years the City of New York has been complaining that having 70 per cent. of the assessed valuation of the property in the State, the city was

city by having the State pay to the city certain items of State revenues and laws, and that the city certain items of expense borne by the city, but which should properly be borne by the State.

The Mayor's Program.

The Mayor, however, was not content with this program, but apparently thought the opportunity ripe to obtain the passage of certain laws, and thus arose the second program or the Mayor's program. For example, the Mayor had introduced at Albany a bill to put the Departments of Charities and Corrections and Bellevue and Allied Hospitals under the Board of Health. Many have thought, for a long time, that these three departments ought to be consolidated under a business man as manager, but the idea of putting the other two departments under the Board of Health aroused such a storm of protest that this bill was withdrawn.

Instead of advocating the consolidation of the Department of Bridges with the Department of Docks and Ferries, the Mayor sent up a bill to continue the Department of Bridges, under the title of the "Department of Plant and Structure," and to put under its jurisdiction the construction, alteration, maintenance, upkeep and repair of all the buildings now managed by the five Borough Presidents, the Police Department, Fire Department, Health Department, Department of Street Cleaning, Department of Charities and Corrections, Bellevue and Allied Hospitals, and also the upkeep and repair of all vehicles, boats and other apparatus. So far as could be ascertained, this bill was not favored by the Board of Estimate, and in the opinion of many people would result in confusion in the building up of a political machine on account of the patronage thus placed in one department. This bill was not on the program of the Tax Reduction Committee.

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In addition to these and other bills in the Mayor's program there was still a third program, namely, the Brown Committee program, which included the enactment of the "pay-as-you-go" policy into a hard and fast law, the result of which will be to make the new Courthouse, all new bridges, hospitals, schoolhouses, parks and all other permanent improvements, except docks, subways and waterworks, payable out of the annual tax levy. This bill is probably a good bill, but will result either in the shutting down on improvements for some years to come or else in a tremendous jump in the tax rate. Another bill advocated by the Brown Committee, but opposed by the Tax Reduction Committee, was the bill to advance the date of payment of taxes one month a year for four years. The Tax Department of the city pointed out that this would not result in a gain, but in a loss of several million dollars to the city, but it passed the Legislature.

As a result of the Mitchell program and the Brown Committee program, both of which had



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The administration of this city, goaded by the desperate financial situation of the municipality started on a campaign last year to charge all of the financial misery of the city to the Legislature. Certain members of the Legislature lent themselves to this scheme this spring to the extent of calling a "rump" session of the Legislature at the City Hall. The result was that, goaded on by the city administration and by these members of the Legislature, the feeling between the city and the up-State became accentuated to a greater extent than ever before.

The result of this criminalization and recrimination, however, was that the Mayor's conference split up into three groups and three programs were evolved. First came the program of the Tax Reduction Committee, which was limited to a few concrete suggestions for the relief of the

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many bills not contained in the program of the Tax Reduction Committee, the program of the Tax Reduction Committee was lost sight of and many of their bills did not pass, or else were made to take effect next year instead of immediately. One of their bills which did pass provides that half of the motor vehicle tax should be returned to the localities. As New York City pays only 45 per cent. of the motor vehicle tax, this will result in about \$400,000 being paid back to New York City and about \$600,000 being paid back to the up-State localities.

There will have to be a direct tax next year to replace this \$1,000,000 thus taken out of the State Treasury. Of this direct tax, New York City will pay 70 per cent. In other words, New York City will receive from the State by this bill \$400,000 and pay back to the State \$700,000, thus making the city a loser by about \$300,000 as a result of this bill urged by the Tax Reduction Committee.

One thing, however, stands out prominently, namely, that the Legislature has appropriated for the coming fiscal year at least \$15,000,000 in excess of the estimated revenues of the State for the same period. The treasury starts with a surplus of \$10,000,000, as a result of last year's direct tax, but that is capital and not revenue. As a result of these appropriations in excess of revenues, there will undoubtedly be a deficit at the end of the coming fiscal year, and another direct tax will have to be imposed, which, of course, will not be very pleasant for New York City.

A direct tax, however, is the rule and not the exception. In 1906, Governor Higgins called attention to the fact that for the first time in 65 years the State would have no direct tax. In my

opinion, it would have been better policy, economically and politically also, for the Legislature to have provided for part of this deficit this year by a direct tax. By leaving the entire direct tax to be imposed next year, the Legislature has injected into the Mayoralty campaign of 1917 an issue which will be given greater prominence than it is entitled to.

State Debt Increases.

Another thing that developed at the session was that the State is rapidly getting into the same financial condition as the City of New York. On January 1, 1895, the State was absolutely free from debt. It now has a debt of \$200,000,000. In 1894 the total appropriations for all purposes were only \$15,000,000. Last year the total appropriations, including reappropriations, amounted to \$85,000,000, and this year they will amount to between \$70,000,000 and \$80,000,000. By 1920 the State will have spent more than \$100,000,000 for highways, and will then not have a complete highway system.

The State has issued fifty-year bonds to build highways and yet certain portions of the construction work will have to be placed ten times before the bonds mature. The result is that by 1920 the maintenance of the State highways will cost the State \$8,000,000 a year annually. It is a grave question as to whether the State should not abandon its present system of highway construction and maintenance and return to the old method.

A book might be written on this subject, but enough has been said to show that it behooves both the State and the city to stop all extravagances for a number of years and give the taxpayer a chance to catch up.

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